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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:

68th Street Dump Superfund Site
City of Baltimore and Near the
Rosedale Area of Baltimore County,
MD 21237

ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/
FEASIBILITY STUDY

Air Products and Chemicals, Inc.
AK Steel Corporation
Baltimore Gas and Electric Company
Beazer East, Inc.
Browning-Ferris, Inc.
Constellation Power Source Generation,
Inc.
CSX Realty Development, LLC
CSX Transportation, Inc.
Exxon Mobil Corporation
General Motors Corporation
Illinois Tool Works Inc.
Industrial Enterprises, Inc.
Kewanee Industries, Inc.
Lucent Technologies Inc.
The Mayor and City Council of
Baltimore, Maryland
Millennium Holdings, LLC
Noxell Corporation
U.S. Filter Recovery Services
Mid-Atlantic, Inc.
Honeywell International Inc.
Alcolac, Inc.
Bayer CropScience Inc.,
Smurfit-Stone Container Enterprises,
Inc.
Chevron Environmental Management
Company

U.S. EPA Region III

CERCLA Docket No. CERC-03-2006-0051 RF

Proceeding Under Sections 104, 107 and 122 of
the Comprehensive Environmental Response,
Compensation, and Liability Act, as amended, 42
U.S.C. §§ 9604, 9607 and 9622.

Settling Parties

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT

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GROUP

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**ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and the parties identified in Appendix A, jointly known as the 68th Street Dump Superfund Site Group ("Settling Parties"). This Settlement Agreement concerns the preparation and performance of a remedial investigation and feasibility study ("RI/FS") at the 68th Street Dump Superfund Site ("Site") located in the City of Baltimore and near the Rosedale area of Baltimore County, Maryland, 21237 and the reimbursement of Future Response Costs (as defined herein) incurred by EPA in connection with the RI/FS.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on April 15, 1994 by EPA Delegation No. 14-14-C and on May 11, 1994 by EPA Delegation No. 14-14-D. This authority was further re-delegated by the Regional Administrator of EPA Region III to the Director, Hazardous Site Cleanup Division on April 27, 1999 by EPA Region III Delegation 14-14-C and on November 3, 2003 by EPA Region III Delegation 14-14-D.

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the United States Department of the Interior and the National Oceanographic and Atmospheric Administration on November 1, 2004, of negotiations with potentially responsible parties ("PRPs") regarding the release of hazardous substances that may have resulted in injury to the natural resources under Federal trusteeship.

4. EPA and Settling Parties recognize and acknowledge that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Settling Parties in accordance with this Settlement Agreement do not constitute an admission of any liability. Settling Parties do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement. Settling Parties agree to comply with and be bound by the terms of this Settlement Agreement and further agree that they will not contest EPA's jurisdiction regarding this Settlement Agreement or its terms.

5. EPA and Settling Parties recognize and acknowledge that this Settlement Agreement has been negotiated in the context of the Superfund Alternative Site Process ("SAS Process") which is set forth in EPA's June 17, 2004 OSWER Directive No. 9208.0-18. The goal of the

SAS Process is to facilitate settlements and cleanups at sites that are equivalent to settlements and cleanups at other sites without listing SAS Process sites on the Superfund National Priorities List ("NPL"). EPA has identified the Site as an SAS Process Site. In this regard, EPA and the Settling Parties recognize and acknowledge that the activities conducted under this Settlement Agreement may result in the use of parceling, multiple work plans, focused remedial investigation and feasibility studies, parallel implementation of potential reuse opportunities with ongoing remediation and investigation, development of operable units (e.g., the stream sediments, the landfill areas, the groundwater), and other methods to address the Site's various areas of concern. EPA and the Settling Parties also recognize and acknowledge that EPA may evaluate the Site in the context of EPA's "Guidance for Preparing Superfund Ready for Reuse Determination," OSWER Directive No. 9365.0-33-D (January 26, 2004).

II. PARTIES BOUND

6. This Settlement Agreement applies to and is binding upon EPA and upon Settling Parties and their successors and assigns. Any change in ownership or corporate or partnership status of a Settling Party including, but not limited to, any transfer of assets or real or personal property shall not alter such Settling Party's responsibilities under this Settlement Agreement.

7. Settling Parties are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one or more Settling Parties to implement the requirements of this Settlement Agreement, the remaining Settling Parties shall complete all such requirements.

8. In the event of any change in ownership or control of the Site, or any portion thereof, owned by any of the Settling Parties, such Settling Parties shall notify EPA, in writing, at least thirty (30) days in advance of the change, of the name, address and telephone number of the transferee in interest and the proposed date of the transfer, and the nature of the proposed transfer or change. Further, such Settling Parties shall provide EPA with a copy of any indemnification agreement which may be executed associated with such change of ownership or control within seven (7) days of its execution. Such Settling Parties shall provide a copy of this Settlement Agreement to the transferee in interest at least thirty (30) days prior to any agreement for transfer.

9. The Settling Parties shall (1) provide a copy of this Settlement Agreement to all contractors retained to conduct or monitor any portion of the Work performed pursuant to this Settlement Agreement within seven (7) days of the Effective Date of this Settlement Agreement or on their date of retention, whichever is later; (2) require that such contractors provide a copy of this Settlement Agreement to their subcontractors, laboratories, consultants, and supervisory personnel; and (3) condition all such contracts on compliance with the terms of this Settlement Agreement. Notwithstanding the terms of any contract, Settling Parties are responsible for complying with this Settlement Agreement and for ensuring that its contractors, subcontractors, laboratories, consultants, supervisory personnel, and agents comply with this Settlement

Agreement. Settling Parties shall be responsible for any noncompliance with this Settlement Agreement.

10. Each undersigned representative of Settling Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind his or her Settling Parties to this Settlement Agreement.

III. STATEMENT OF PURPOSE

11. In entering into this Settlement Agreement, the objectives of EPA and Settling Parties are, in conjunction with the SAS Process: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, by conducting a Remedial Investigation; (b) to identify and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site, by conducting a Feasibility Study; and (c) to recover certain Future Response Costs incurred by EPA with respect to this Settlement Agreement. The Parties intend, by entering into this Settlement Agreement, to compromise disputed claims and avoid burdensome litigation. Settling Parties' participation in this Settlement Agreement shall not constitute or be construed as an admission of liability, or an admission or acknowledgment of EPA's Findings of Fact or EPA's Conclusions of Law and Determinations as set out in this Settlement Agreement, except in a proceeding to enforce the terms of this Settlement Agreement.

12. The activities conducted under this Settlement Agreement are subject to approval by EPA and shall provide all appropriate and necessary information to assess Site conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Settling Parties shall conduct all of the activities required under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures. The activities conducted pursuant to this Settlement Agreement, if approved by EPA, shall be deemed consistent with the NCP.

IV. DEFINITIONS

13. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated and enforceable hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall be the Effective Date of this Settlement Agreement as provided in Section XXIX.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Engineering Controls" shall mean constructed containment barriers or systems that control one or more of the following: downward migration, infiltration or seepage of surface runoff or rain, or natural leaching migration of contaminants through the subsurface over time. Examples include caps, engineered bottom barriers, immobilization processes, vertical barriers, groundwater pump and treat systems and excavation of contaminated soils.

f. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs pursuant to this Settlement Agreement after the Effective Date in: (1) reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise enforcing the Work pursuant to Section 104(a)(1) of CERCLA, 42 U.S.C. § 9604(a)(1); and (2) implementing the Work. Future Response Costs shall, include but not be limited to, payroll costs, contractor costs, travel costs, laboratory costs, Agency for Toxic Substances and Disease Registry costs, the costs incurred pursuant to Paragraph 53 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 38 (Emergency Response), and Paragraph 86 (Work Takeover).

g. "Institutional Controls" shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, well drilling prohibitions, public health advisories and administrative orders.

h. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

i. "MDE" shall mean the Maryland Department of the Environment and any successor departments or agencies of the State.

j. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

k. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

l. "Parties" shall mean EPA and Settling Parties.

m. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

n. "Settling Parties" shall mean those parties identified in Appendix A.

o. "SAS Process" shall mean the Superfund Alternative Site Process which is set forth in EPA's June 17, 2004 OSWER Directive No. 9208.0-18.

p. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

q. "Site" shall mean the 68th Street Dump Superfund Site, encompassing approximately 165 acres, located in the City of Baltimore and the Rosedale area of Baltimore County, Maryland. The Site is adjacent to the CSXT railroad tracks to the north; to Quad Avenue, industrial properties, and Pennsylvania Railroad tracks to the south; and to commercial and industrial developments to the west. The Site is near, but not adjacent to, residential developments to the north and northeast. The Site consists of five source areas which are delineated on the map of the Site attached hereto as Appendix B.

r. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved Submissions. EPA-approved Submissions (other than progress reports; the names, titles and qualifications of personnel submitted pursuant to Paragraph 27; and the Health and Safety Plan which are not submitted to EPA for approval) are incorporated into and become a part of this Settlement Agreement upon approval by EPA. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

s. "State" shall mean shall mean the State of Maryland.

t. "SOW" shall mean the Statement of Work for the Site which is attached hereto as Appendix C and which is incorporated into and enforceable under this Settlement Agreement.

u. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any "hazardous material" under Section 7-201(m) of the Environmental Article, Annotated Code of Maryland (1993) (as amended).

v. "Work" shall mean all activities Settling Parties are required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records) and Section XVIII (Payment of Future Response Costs).

V. EPA'S FINDINGS OF FACT

14. Site Name, Location, Description and History.

a. The Site consists of five source areas that were used as landfills from the mid-1940s through the early 1970s. Eighteen acres of the western portion of the Site are located within the City of Baltimore and the remainder of the Site (approximately 150 acres) is located near the Rosedale area of Baltimore County, Maryland.

b. Surrounding land use in the area of the Site includes a variety of industrial and residential properties. Several existing commercial firms and new commercial development are located south of the Site on Quad Avenue and residential developments are present immediately north and northeast of the Site. The majority of the Site is located in a low-lying area, originally occupied by wetlands that were filled by various means over time. Moore's Run, Herring Run, Redhouse Run, and an unnamed tributary flow through the remainder of the Site and eventually lead into the Back River at the southeastern boundary of the Site.

c. Past independent land disposal operations were located at specific source areas at the Site, and involved the disposal and landfilling of a variety of solid and liquid municipal solid, industrial and commercial wastes. The five source areas requiring further evaluation include the Colgate Pay Dump/Original Robb Tyler Landfill ("Original Landfill"), Horseshoe Landfill, Island Landfill, Redhouse Run Landfill and Industrial Enterprises/Unclaimed Landfill.

d. The area designated by EPA as the "Original Landfill," Source Area 1, is approximately 55 acres in areal extent and is located in the westernmost portion of the Site on parcels 213, 340 and 427. Henry, Dorothy, Donald and Joan Siejack (collectively doing business as Colgate Pay Dump) owned and operated the Colgate Pay Dump on parcel 213 and City of Baltimore parcel 6235B, Lot 10, and Refuse Disposal, Inc. operated a separate landfill on parcel 340. Robb Tyler, Inc. was a transporter of waste to the Refuse Disposal component of the

Original Landfill. The Colgate Pay Dump landfills (east and west) operated from at least 1946 through 1971, receiving a variety of municipal solid, industrial and commercial wastes. The Refuse Disposal Landfill operated from 1953 to 1956 and received predominantly industrial refuse. In January, 1978, the State acquired Parcel 213 (44.1068 acres) through condemnation from the Siejacks. In July 1982 the State sold the majority of the property to the City of Baltimore (acting through the Mayor and City Council). Approximately two acres are still owned by the State Highway Administration. Parcel 340 (14.12 acres) was acquired in October 1972 by the State from Robb and Elizabeth Worthington Tyler through condemnation and was then conveyed to the City of Baltimore (acting through the Mayor and City Council) in July 1982. Baltimore County Records indicate that on October 30, 1972, the State Highway Administration of the Department of Transportation obtained Parcel 427 from the Marley Neck Patapsco Company and Robb Tyler and Elizabeth Worthington as part of the property which was acquired in the condemnation case filed in Baltimore County.

e. The State Roads Commission of the State Highway Administration excavated 200,000 cubic yards of wastes, consolidating them into five separate mounds that remain on parcels 213 and 340. The City of Baltimore (acting through the Mayor and City Council) disposed an additional 40,000 cubic yards of commercial solid waste into these mounds.

f. Source Area 2, termed by EPA as the Horseshoe Landfill, consists of approximately 30.046 acres south of the CSXT tracks on parcels 405, 364 and 399. Source Area 2 is located in the north-central part of the Site. The landfill was operated by Refuse Disposal, Inc. under Permit 65-33-0717 in the mid-1960s, but the types of wastes received are unknown. The landfill surrounds a pond and associated wetlands which provide the source for the unnamed tributary. Parcel 405, which is 23.8 acres in size, was acquired by Marley Neck-Patapsco Company, a predecessor of CSX Realty Development, LLC on February 4, 1972. A portion of Parcel 405 has been leased by R. M. Winstead Co./Mardon Services since the early 1980s. Parcels 364 and 399, which are 4.513 acres and 1.733 acres respectively, were also acquired by Marley Neck-Patapsco Company on February 4, 1972. Parcels 364 and 399 were leased by Thirteen Sixty Broadcasting Company (and subsequently assigned to Brunson Broadcasting Co., of Maryland, Inc., then to Allied Media of MD, Inc.) from November 19, 1954 and December 18, 1956 respectively, until April 30, 1993.

g. Source Area 3, termed by EPA as the Island Landfill, is located downstream of the confluence of Herring Run and Moore's Run on the western half of an island in Herring Run. Source Area 3 is a seven-acre area that had been used by Robb Tyler to dispose of 55-gallon drums of industrial wastewater treatment sludge, incinerator ash, paint sludge, solvents, and waste oils. Numerous drums were observed on the island, although this was not a dedicated drum site. According to MDE, only visible drums were removed in 1985 and additional drums remain buried below the surface. On September 16, 1954, Robb Tyler and Elizabeth Worthington Tyler purchased Parcel 151, which is 29.45 acres in size, from the Union Trust Company, trustee and executor, for the estate of Marie B. Kavanaugh. In his will Robb Tyler appointed his children, Mary Tyler Doub and Alfred Tyler, II, as personal representatives of his

estate and the parcel was conveyed to them on April 2, 1993. On January 31, 1997, the parcel was conveyed to a trust for the benefit of Mary Tyler Doub and Alfred Tyler, II with Tyler's children as trustees. On January 22, 1999, the trust conveyed Parcel 151 to Pulaski & 68th Street, L.L.C., a Maryland limited liability company.

h. Source Area 4, termed by EPA as the Redhouse Run Landfill, consists of a disposal area that had been used by Robb Tyler located west of Redhouse Run in the northeast portion of the Site on parcels 403 and 405. Parcel 403 is 6.12 acres in size, and Parcel 405 is 23.8 acres in size. Filling in this area occurred from at least 1964 through 1969. In addition to dumping waste at this location, Robb Tyler used the area surrounding Source Area 4 for a waste separation and salvaging operation, and for spreading incinerator ash. Browning Ferris Industries began leasing the structure on Source Area 4 from Robb Tyler in 1971 and purchased the Tyler waste collection business in 1970.

i. Source Area 5 is located in the southeastern portion of the Site and comprises four parcels (15, 16E, 117, and 135) owned by Industrial Enterprises. These parcels contain the following acres: (1) Parcel 15—3.5849 acres; (2) Parcel 16E—8.77 acres (Parcel 16E is the remainder of former Parcel 16 after Industrial Enterprises conveyed 14.9577 acres of Parcel 16 to Trammel Crow in September 2003); (3) Parcel 117—10.87 acres; and Parcel 135—3.49 acres. A fifth parcel is an area with no owner of record, though disposal on this parcel by Robb Tyler was noted as early as 1956. EPA obtained a judicial warrant in 2000 allowing it and its contractor to enter into this untitled parcel. Robb Tyler obtained a license agreement in October 1955 from Industrial Enterprises and received a permit to conduct landfiling activities on a small portion of Industrial Enterprises' property at this source area. A Baltimore County Health inspection report describes dumping adjacent to the tidal marsh, a waste oil pit located near the water, and fill being dumped into the marsh to allow more dumping to occur in the area formerly occupied by wetlands.

15. Hazardous Substances at and Actual/Potential Releases From the Site.

a. Historical inspection reports and accounts from former employees provide evidence of the disposal of industrial wastes at the Site. According to Robb Tyler, there were no restrictions on the types of wastes that could be dumped at the landfill prior to the 1960s. Drummed wastes, including liquids, were disposed directly onto the surface of the ground during the 1950s and 1960s. EPA's aerial photography analysis supports the conclusion that from the late 1950s through 1971, the dumping of wastes into the wetlands occurred throughout all five of the source areas. The Site was covered with 198 acres of wetlands prior to the start of the various disposal activities. Prior to 1971, natural sedimentation and the landfiling activities at the Site filled in a total of 83.0 acres of wetlands and a total of 10,215 linear feet of adjacent stream frontage was channelized.

b. Several tributaries to Herring Run flowed through Source Area 1 prior to the start of the waste disposal activities. Dumping of wastes in Source Area 1 filled in these

tributaries, diverting Herring Run from its original course. Inspection reports indicate that wastes were deposited along a tributary to Herring Run, causing the tributary to dam up. The reports also document "heavy pollution" in the form of an oil slick entering this tributary. The inspectors also noted several waste oil disposal pits and an "exceedingly large amount of barrels" strewn on the Site.

c. The Back River and Chesapeake Bay are located along the 15-mile surface water pathway target distance limit ("TDL") for the Site. Targets within the 15-mile TDL include the Herring Run, Back River, and Chesapeake Bay fisheries and over 23 miles of wetland frontage. Analytical results of sediment samples collected from the Herring Run fishery downstream of the Site document contamination with PAHs, lead, and zinc. Analytical results of samples collected from wetlands remaining at the Site document elevated concentrations of PAHs, PCBs, and metals.

d. Drums and stained soils have been observed at the Site during numerous inspections and Site visits. Investigations document that all types of wastes were accepted at all five of the source areas described above. Hazardous substances determined to be present in the waste streams include: metals (such as lead and zinc), solvents, paint waste, polyaromatic hydrocarbons ("PAHs"), acids, polychlorinated biphenyls ("PCBs"), and pesticides. Examples of these same contaminants have been detected in samples collected from all five of the source areas that comprise the Site. Analytical results reveal elevated concentrations of PAHs, PCBs, and metals in samples collected from the remaining wetlands located within the Site. Sediment samples collected from Herring Run downstream of the Site document contamination from lead and the following PAHs: benzo(a)anthracene, benzo(k)-fluoranthene, and benzo(a)pyrene.

e. There is no evidence that an engineered cap meeting today's landfill closure standards was installed or maintained on any of the five source areas. Several source areas, however, received substantial cover material and were closed. None of the five source areas have a functioning or maintained run-on control system and runoff management system. There is also no documentation that any of the source areas were designed, constructed, operated, and maintained to prevent a washout of hazardous substances during a flood.

16. State and EPA Response Actions at the Site.

Three removal actions have been conducted at the Site. From some time in late 1979 or early 1980 through early 1982, up to 23 drums of hazardous waste (due to elevated lead and cadmium concentrations) were removed from Source Area 5. In 1984 10 drums were removed from Source Area 4; one contained paint sludge and the remainder were empty and badly deteriorated. In 1985 a fire at Source Area 3 resulted in an emergency response action that led to the removal of 40 drums partially filled with solvents. According to MDE, only visible drums were removed from Source Area 3 in 1985, and additional drums remain buried below the surface. In addition, additional drums currently are scattered throughout the source areas, usually partially buried and badly deteriorated, some of which contain residual material or other

unidentified wastes.

17. Proposal for Inclusion on the National Priorities List.

a. EPA first proposed listing of the Site on the NPL, pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on January 19, 1999. During the public comment period, EPA received extensive comments from PRPs at the Site. EPA then conducted extensive Site sampling during an extended Site investigation between April and May of 2000.

b. EPA re-proposed listing of the Site on April 30, 2003. EPA solicited comments regarding the proposed listing, received numerous comments from PRPs and the public and held a public meeting on May 19, 2003.

18. Settling Parties

a. Air Products and Chemicals, Inc., which was incorporated on May 25, 1961 in the State of Delaware, was an arranger for the disposal of hazardous substances at the Site.

b. Armco, Inc., predecessor in interest to AK Steel Corporation, was an arranger for disposal of hazardous substances at the Site. Accordingly, AK Steel Corporation is a Settling Party at the Site as successor in interest by virtue of a merger with Armco, Inc. AK Steel Corporation was incorporated on March 13, 1989 in the State of Delaware.

c. Baltimore Gas and Electric Company ("BGE"), which was incorporated on June 20, 1906 in the State of Maryland, was an arranger for the disposal of hazardous substances at the Site. On July 1, 2000, certain fossil generation assets and liabilities were transferred from BGE to a related corporation known as Constellation Power Source Generation, Inc. ("CPSG"), which was incorporated on January 20, 2002 in the State of Maryland. Accordingly, CPSG is a Settling Party and is signing this Settlement Agreement along with Settling Party BGE.

d. Koppers Company, Inc. (now known as Beazer East, Inc.) was a transporter and an arranger for the disposal of hazardous substances at the Site. Accordingly, Beazer East, Inc. is a Settling Party at the Site by virtue of a name change. Koppers Company was incorporated on September 30, 1944 in the State of Delaware.

e. Robb Tyler, Inc. and Refuse Disposal, Inc. were predecessors in interest to Browning-Ferris, Inc. Robb Tyler, Inc. was a transporter for the disposal of hazardous substances at the Site. Refuse Disposal, Inc. was an operator of the Site. Accordingly, Browning-Ferris, Inc. is a Settling Party at the Site by virtue of mergers with Robb Tyler, Inc. and Refuse Disposal, Inc. Browning-Ferris, Inc. was incorporated on August 4, 1978 in the State of Maryland.

f. The City of Baltimore (acting through the Mayor and City Council), a municipality in the State of Maryland, is a current owner of Parcels 213, 340 and 6235B, Lot 10, and was a

transporter and an arranger for the disposal of hazardous substances at the Site.

g. CSX Transportation, Inc. is the current owner of a parcel in Source Area 1 of the Site, Block 6235-B of Lot 9, Ward 26, Section 18, City of Baltimore. CSX Transportation, Inc. was incorporated under the laws of the Commonwealth of Virginia on January 26, 1944, as Seaboard Railway Company. CSX Realty Development, LLC, which was incorporated on April 15, 1997 in the State of Georgia, is a current owner of Parcel 405 at the Site.

h. Standard Oil Company of New Jersey, predecessor in interest to Exxon Mobil Corporation, was a transporter and an arranger for the disposal of hazardous substances at the Site. Accordingly, Exxon Mobil Corporation is a Settling Party at the Site by virtue of the merger of Mobil Corporation and Exxon Corporation, which had previously changed its name from Standard Oil Company of New Jersey. Standard Oil Company of New Jersey was incorporated on August 5, 1882 in the State of New Jersey.

i. General Motors Corporation, which was incorporated on October 13, 1916 in the State of Delaware, was a transporter and an arranger for the disposal of hazardous substances at the Site.

j. Signode Steel, Signode Steel Strapping and Signode Supply, predecessors to certain divisions of Illinois Tool Works Inc. and Vulcan-Hart, predecessor to a division of ITW Food Equipment Group LLC and an indirect subsidiary of Illinois Tool Works Inc. were arrangers for the disposal of hazardous substances at the Site. Accordingly, Illinois Tool Works Inc. is a Settling Party at the Site by virtue of mergers among those predecessor corporations. Illinois Tool Works Inc. was incorporated on June 19, 1961 in the State of Delaware.

k. Industrial Enterprises, Inc., which was incorporated on December 29, 1952 in the State of Maryland, currently owns Parcels 15, 16E, 117 and 135 at the Site and owned Parcel 15 at the Site at the time of disposal.

l. Bruning Paint Company, a Maryland corporation, was a transporter and an arranger for disposal of hazardous substances at the site. Subsequent to that initial arrangement for the disposal of hazardous substances at the Site, a series of mergers, name changes and other transactions involving Bruning Paint Company and Kewanee Industries, Inc., a Delaware corporation, incorporated on August 8, 1977, as well as other corporate entities took place. Kewanee Industries, Inc., is a Settling Party at the Site by virtue of these various mergers, name changes and/or other transactions. Chevron Environmental Management Company is an affiliate of Kewanee Industries, Inc., and maintains that it is authorized to enter into this Settlement Agreement on behalf of itself and Kewanee Industries, Inc.

m. AT&T Corporation, AT&T Technologies Inc. and Western Electric Company, predecessors in interest to Lucent Technologies Inc., were arrangers for the disposal of hazardous substances at the Site. Accordingly, Lucent Technologies Inc. is a Settling Party by virtue of

corporate successorship involving AT&T Corporation, AT&T Technologies Inc. and Western Electric Company. Lucent Technologies Inc. was incorporated on November 29, 1995 in the State of Delaware.

n. The Glidden Company and SCM Chemicals were arrangers for the disposal of hazardous substances at the Site. Subsequent to that initial arrangement for the disposal of hazardous substances at the Site, a series of mergers, name changes and other transactions involving The Glidden Company, SCM Chemicals, PEMCO, Inc., SCM Corporation, Millennium Inorganic Chemicals, Inc., Millennium Holdings Corporation, and Millennium Holdings, LLC as well as other corporate entities took place. Millennium Holdings, LLC, which is a limited liability company that was formed on June 11, 2001 in the State of Delaware, is a Settling Party at the Site by virtue of these various mergers, name changes and/or other transactions.

o. Noxell Corporation, which was incorporated on August 16, 1917 in the State of Maryland, was a transporter and an arranger for the disposal of hazardous substances at the Site.

p. Pori International, Inc., Pori Inc., Palm Oil Recovery Inc. and Pori International, Inc./AEs, predecessors in interest to U.S. Filter Recovery Services Mid-Atlantic, Inc., were arrangers for the disposal of hazardous substances at the Site. Accordingly, U.S. Filter Recovery Services Mid-Atlantic, Inc. ("USFR"), is a Settling Party at the Site by virtue of asset purchases and mergers involving the companies referenced immediately above. USFR was incorporated on February 18, 1997 in the State of Delaware. U.S. Filter Corporation ("USFC"), which is the parent company of USFR, changed its name to Water Applications & Systems Corporation. Water Applications & Systems Corporation is signed this Settlement Agreement on behalf of USFC and USFR.

q. AlliedSignal, Inc., a predecessor in interest to Honeywell International Inc., was a transporter and an arranger for the disposal of hazardous substances at the Site. Accordingly, Honeywell International Inc. is a Respondent at the Site by virtue of a merger involving AlliedSignal, Inc. Honeywell International Inc. was incorporated on May 13, 1985 in the State of Delaware.

r. Alcolac, Inc. ("Alcolac"), which was incorporated on December 24, 1986 in the State of Georgia and became a subsidiary of Rhone-Poulenc Inc. ("RPI") on October 20, 1989, was allegedly an arranger for the disposal of hazardous substances at the Site. On January 1, 1998, RPI transferred its specialty chemicals assets, including Alcolac, to Rhodia Inc. ("Rhodia"), which was incorporated on July 9, 1997 in the State of Delaware. By virtue of various mergers, name changes, and/or other transactions, Bayer CropScience Inc., which was incorporated on March 26, 1948 under the name of Rhodia Inc. in the State of New York and later changed its name to Rhone-Poulenc Inc. on October 18, 1978, is now the successor to RPI. Accordingly, Alcolac is a Settling Party and is signing this Settlement Agreement both on behalf of Settling Party Bayer CropScience Inc. and in its own capacity as a Settling Party.

s. Smurfit-Stone Container Enterprises, Inc., formerly known as Stone Container Corporation ("SCC"), a corporation organized in the State of Delaware on April 14, 1987, is the successor-in-interest to Jefferson Smurfit Corporation (U.S.) ("JSC"), which merged with SCC on November 1, 2004. JSC had previously merged with Container Corporation of America on December 31, 1994. Accordingly, as successor-in-interest to JSC, Smurfit-Stone Container Enterprises, Inc. is a Settling Party as an arranger for the disposal of hazardous substances at the Site.

t. Other PRPs may execute this Settlement Agreement and be included as Settling Parties.

VI. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

Based on EPA's Findings of Fact set forth above, EPA has determined that:

19. The 68th Street Dump Superfund Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

20. The contamination found at the Site, as identified in EPA's Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

21. The conditions described in Paragraphs 14 and 15 of EPA's Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the Facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

22. Each Settling Party listed in Section V.18 and in Appendix A to this Settlement Agreement is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

23. Settling Parties are responsible parties under Section 107 of CERCLA, 42 U.S.C. § 9607.

24. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1) and 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

25. EPA has determined that Settling Parties are qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Settling Parties comply with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

26. Based upon EPA's Findings of Fact and EPA's Conclusions of Law and Determinations set forth above, it is hereby Ordered and Agreed that Settling Parties shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

27. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within thirty (30) days of the Effective Date of this Settlement Agreement, and before the Work begins, Settling Parties shall submit in writing for EPA review and acceptance or disapproval the names, titles, and qualifications of the personnel, including contractors (and, if known, the contractors' subcontractors, consultants and laboratories) to be used in carrying out the Work. With respect to any proposed contractors, subcontractors, consultants and laboratories, Settling Parties shall demonstrate that the proposed contractors, subcontractors, consultants and laboratories have a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in a manner consistent with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Settling Parties shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. If EPA disapproves in writing of any person's technical qualifications, Settling Parties shall notify EPA of the identity and qualifications of the replacements within thirty (30) days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS, and to seek reimbursement of response costs and penalties from Settling Parties. During the course of the RI/FS, Settling Parties shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

28. Within thirty (30) days after the Effective Date, Settling Parties shall designate a Project Coordinator who shall be responsible for all activities by Settling Parties required by this Settlement Agreement and shall submit to EPA for review and acceptance or disapproval the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during activities at the Site required by this Settlement Agreement. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project

Coordinator, Settling Parties shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within thirty (30) days following EPA's disapproval. Settling Parties shall have the right to change their Project Coordinator, subject to EPA's right to disapprove. The Settling Parties may replace the Project Coordinator when the existing Project Coordinator changes jobs or is otherwise unable to perform the Work for which he or she has been approved. Settling Parties shall notify EPA thirty (30) days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by Settling Parties' Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Settling Parties.

29. EPA has designated Christopher J. Corbett of the EPA Region III's Hazardous Site Cleanup Division as its Project Coordinator for this Settlement Agreement. EPA will notify Settling Parties of a change of its Project Coordinator. Except as otherwise provided in this Settlement Agreement, Settling Parties shall direct all submissions required by this Settlement Agreement to the Project Coordinator at the following address:

Christopher J. Corbett (3HS22)
Remedial Project Manager
Western Pennsylvania and Maryland Remedial Branch
Hazardous Site Cleanup Division
1650 Arch Street
Philadelphia, PA 19103.

30. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager and On-Scene Coordinator by the NCP. In addition, EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when s/he determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

31. On or before the Effective Date, EPA will arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify any EPA-approved Submissions.

IX. WORK TO BE PERFORMED

32. EPA and Settling Parties recognize and acknowledge that this Settlement Agreement has been negotiated in the context of the SAS Process which is set forth in EPA's June 17, 2004 OSWER Directive No. 9208.0-18. The goal of the SAS Process is to facilitate settlements and

cleanups at sites that are equivalent to settlements, and cleanups at other sites without listing SAS Process sites on the NPL. EPA has identified the Site as an SAS Process Site. Attached as Appendix C is the Statement of Work for the Site ("SOW") which is incorporated into and enforceable under this Settlement Agreement.

33. Commencing on the Effective Date, and thereafter, Settling Parties shall conduct the Work in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA and the NCP and in a manner consistent with all applicable EPA guidances, policies and procedures, and guidance referenced therein, as may be amended or modified by EPA. Those guidances, policies and procedures include, but are not limited to, those identified in Appendix B to the SOW. The Remedial Investigation ("RI") shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study ("FS") shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Settling Parties shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). In accordance with the schedules established in this Settlement Agreement and in the SOW, Settling Parties shall submit to EPA and the State two (2) copies of all plans, reports and other deliverables required under this Settlement Agreement and the SOW. Except for Progress Reports submitted pursuant to Paragraph 37; the names, titles and qualifications of personnel submitted pursuant to Paragraph 27; and the Health and Safety Plan submitted pursuant to Section 5.3 of the SOW, all plans, reports and other deliverables (Submissions) will be reviewed and approved by EPA pursuant to Section X (EPA Approval of Submissions). Upon EPA's request, Settling Parties shall also provide copies of plans, reports or other deliverables to Community Advisory Groups, Technical Assistance Grant recipients or any other entities as directed by EPA. Upon request by EPA, Settling Parties shall submit in electronic form all portions of any plan, report or other deliverable Settling Parties are required to submit pursuant to provisions of this Settlement Agreement.

34. Modification of Submissions.

a. If at any time during performance of the Work under this Settlement Agreement, Settling Parties identify a need for additional information, Settling Parties shall submit a memorandum documenting the need for additional information to the EPA Project Coordinator within thirty (30) days of identification. EPA in its discretion will determine whether the additional information will be collected by Settling Parties and whether it will be

incorporated into plans, reports and other deliverables.

b. If EPA determines that additional activities may be necessary to accomplish the objectives of the RI/FS, Settling Parties shall indicate their willingness to perform the additional Work in writing to EPA within seven (7) days of receipt of the EPA request, or such other time period as EPA may prescribe. If Settling Parties object to any modification determined by EPA to be necessary pursuant to this Paragraph, Settling Parties may seek dispute resolution pursuant to Section XV (Dispute Resolution). The Submission shall be modified in accordance with the final resolution of the dispute and Section XXIX (Effective Date and Subsequent Modification).

c. Settling Parties shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the Submission or written Submission supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement of the costs to conduct such additional Work from Settling Parties, and/or to seek any other appropriate relief.

d. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions at the Site.

35. Off-Site Shipment of Waste Material. Settling Parties shall, prior to any off-site shipment of Waste Material from the Site to an out-of-state waste management facility, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's Designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments will not exceed 10 cubic yards.

a. Settling Parties shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Settling Parties shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Settling Parties following the award of the contract for the remedial investigation and feasibility study. Settling Parties shall provide the information required by Subparagraphs 35.a and 35.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Settling Parties shall obtain EPA's determination that the proposed receiving facility is operating in compliance with the requirements of Section 121(d)(3)

of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Settling Parties shall send hazardous substances, pollutants, or contaminants from the Site only to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

36. Meetings. Settling Parties shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be mutually scheduled and jointly held, but at EPA's primary discretion.

37. Progress Reports. Commencing on the Effective Date, and thereafter, the Settling Parties shall provide to EPA monthly progress reports by the 15th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Settlement Agreement during that month, (2) include all results of sampling and tests and all other data received by Settling Parties, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

38. Emergency Response and Notification of Releases.

In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Site that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Settling Parties shall immediately take all appropriate action. Settling Parties shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the EPA-accepted Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Settling Parties shall also immediately notify the EPA Project Coordinator. If the EPA Project Coordinator is unavailable, the Settling Parties shall notify the EPA Region III Hotline at (215) 814-9016 of the incident or Site conditions. Settling Parties shall submit a written report to EPA within seven (7) days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.* In the event that Settling Parties fail to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Settling Parties shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Future Response Costs).

X. EPA APPROVAL OF SUBMISSIONS

39. After review of any Submission, Settling Parties are required to submit to EPA pursuant to this Settlement Agreement, EPA will: (a) approve the Submission in whole or in part; (b) approve the Submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the Submission, directing that Settling Parties modify the Submission; or (e) any combination of the above. However, EPA shall not modify a Submission without first providing Settling Parties at least one notice of deficiency and an opportunity to cure within thirty (30) days, except where EPA determines that doing so would cause serious disruption of the Work or where previous Submission(s) have been disapproved due to material defects.

40. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 39(a), (b), (c) or (e), Settling Parties shall proceed to take any action required by the Submission, as approved or modified by EPA subject only to their right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a Submission or portion thereof, Settling Parties shall not thereafter alter or amend such Submission or portion thereof unless directed by EPA. In the event that EPA modifies the Submission to cure the deficiencies pursuant to Subparagraph 39(c) and the Submission contained a material defect, EPA reserves the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties) until the material defect is cured.

41. Resubmission.

a. Upon receipt of a notice of disapproval, Settling Parties shall, within thirty (30) days or such other time as specified by EPA in such notice, correct the deficiencies and resubmit the Submission for approval. Any stipulated penalties applicable to the Submission, as provided in Section XVI, shall accrue during the thirty-day period or otherwise specified period but shall not be payable unless the resubmitted Submission is disapproved or modified due to a material defect as provided in Paragraphs 39 and 40, and such stipulated penalties are demanded.

b. Unless directed otherwise by EPA, Settling Parties shall proceed to conduct all Work required by any non-deficient portion of the Submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a Submission shall not relieve Settling Parties of any liability for stipulated penalties under Section XVI (Stipulated Penalties) for any deficient portion of the Submission.

42. If EPA disapproves a resubmitted Submission, or portion thereof, EPA may again direct Settling Parties to correct the deficiencies. EPA also retains the right to modify or develop the Submission. Settling Parties shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to Settling Parties' right to invoke the procedures set forth in Section XV (Dispute Resolution).

43. If upon resubmission, a Submission is disapproved or modified by EPA due to a material defect, Settling Parties shall be deemed to have failed to submit such Submission timely and adequately unless Settling Parties invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's determination is reversed or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superceded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise reversed, substantially modified or superceded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial Submission was originally required, as provided in Section XVI.

44. In the event that EPA takes over some of the Work, but not the preparation of the RI Report or the FS Report, Settling Parties shall incorporate and integrate the results of the Work EPA takes over into the final RI and FS Reports.

45. All Submissions (other than progress reports) under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan, report, or other Submission submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and become enforceable under this Settlement Agreement unless, following Dispute Resolution (Section XV), Settling Parties successfully challenge such modified portion.

46.a. A "responsible official" of the Settling Parties, or his/her duly authorized representative participating in the oversight of RI/FS activities, or the Project Coordinator selected by Settling Parties and accepted by EPA pursuant to Paragraph 28, shall sign a certification to the final RI and FS reports in accordance with the requirements of this provision.

b. For a corporation, a "responsible official" means a president, secretary, treasurer, vice president in charge of a principal business function, other person who performs similar policy or decision-making functions for the corporation, or, if authority to sign documents has been assigned or delegated to him/her in accordance with corporate procedures, the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$35 million (in second quarter 1980 dollars when the Consumer Price Index was 345.3). For a partnership or sole proprietorship, "responsible official" means a general partner or the proprietor, respectively.

c. A person is a "duly authorized representative" within the meaning of this subsection only if:

1. The authorization is made in writing by a responsible corporate official;

and

2. The authorization specifies either an individual or a position within the Settling Party's organization responsible for overseeing performance of the RI/FS.

d. The certification required by this provision shall be in the following form:

"Except as provided below, I certify that the information contained in or accompanying this [type of Submission] is true, accurate and complete.

"As to those portions of this [type of Submission] for which I cannot personally verify their accuracy, I certify that this [type of Submission] and all attachments were prepared at my direction and with my review, in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is true, accurate, and complete to the best of my knowledge, information, and belief.

"This certification shall not apply to information contained herein that was inserted into this [type of Submission] by EPA, or was required by EPA to be inserted into this [type of Submission], over my objection."

47. Neither the failure of EPA to expressly approve or disapprove of Settling Parties' Submissions within a specified time period, nor the absence of comments on these Submissions, shall be construed as approval by EPA. Regardless of whether EPA expressly approves Settling Parties' Submissions, Settling Parties remain responsible for preparing Submissions acceptable to EPA; provided, however, Settling Parties shall not be subject to Stipulated Penalties or claims for failure to comply with or breach of this Settlement Agreement if they are delayed in submitting a deliverable based on a lack of action by EPA in response to a prior Submission which requires express EPA approval before Settling Parties can proceed, as so determined by EPA pursuant to Section XVII (Force Majeure). EPA's approval of any of Settling Parties' Submissions shall not unreasonably be withheld.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

48. Quality Assurance. Settling Parties shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the Site-Wide Work Plans, the QAPP and guidances identified therein. Settling Parties will assure that field personnel used by Settling Parties are properly trained in the use of field equipment and in chain of custody procedures. Settling Parties shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

49. Sampling.

a. All results of sampling, tests, modeling or other data generated by Settling Parties, or on Settling Parties' behalf, during the period that this Settlement Agreement is effective, shall be submitted to EPA in the first monthly progress report as described in Paragraph 37 of this Settlement Agreement following Settling Parties' receipt of the validated sampling results. EPA will make available to Settling Parties validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. Settling Parties shall verbally notify EPA and the State at least thirty (30) days prior to conducting field events as described in any EPA-approved Submission. At EPA's verbal or written request by no later than the actual sampling event, or the request of EPA's oversight assistant, Settling Parties shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) or the State of any samples collected in implementing this Settlement Agreement.

50. Access to Information.

a. Settling Parties shall provide to EPA and the State, upon request, copies of all documents and information within their possession or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Settling Parties shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. Settling Parties may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information claimed by the Settling Parties or determined by EPA to be confidential will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to EPA and the State, or if EPA has notified Settling Parties that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Settling Parties. Settling Parties shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Settling Parties assert business confidentiality claims.

c. Settling Parties may assert that certain documents, records and other information are privileged under the work-product doctrine or attorney-client privilege or any other privilege recognized by applicable law. If the Settling Parties assert such a privilege in lieu

of providing documents, they shall provide EPA and the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Settling Parties. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

51. [Reserved]

XII. SITE ACCESS

52.a. If the Site, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by any of Settling Parties, such Settling Parties shall, commencing on the Effective Date, provide EPA, the State and their authorized representatives (including contractors) with access at all reasonable times to the Site, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

b. EPA, the State and their authorized representatives shall have the authority to enter and freely move about all Site property owned or controlled by Settling Parties subject to this Settlement Agreement at all reasonable times for the purpose of, inter alia: inspecting records, operating logs, and contracts related to the Site; reviewing the progress of the Settling Parties in carrying out the terms of this Settlement Agreement; conducting such tests as EPA deems necessary; using a camera, sound recording, or other documentary type equipment; and verifying the data submitted to EPA by the Settling Parties. In addition, EPA and its authorized representatives shall have, for the purposes specified above, the authority to enter, at all reasonable times, all areas at which records related to the performance of the RI/FS are retained. The Settling Parties shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Settlement Agreement. Confidentiality and privilege claims for any material so copied may be asserted in accordance with Section XI, Paragraph 50 of this Settlement Agreement. As a result of issues related to security and safety, EPA, the State and their authorized representatives shall comply fully with all Site-related and EPA-accepted Health and Safety Plans in effect at the time of their visit. Nothing herein shall be interpreted as limiting the inspection and information gathering authority of EPA under Federal law.

c. In the event that EPA takes over the work pursuant to Paragraph 86 of this

Settlement Agreement, Settling Parties agree to allow EPA, the State and their authorized representatives access to the Site and to any portions of the Site under their ownership or control for the purpose of conducting the RI/FS and performance of activities identified in Paragraph 50.b of this Section XII.

d. If any Settling Party acquires title to or control over any portion of the Site to which it does not presently hold title or control, such Settling Party agrees that EPA, the State and their authorized representatives shall have access rights to such property as specified in this Section XII.

53. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Settling Parties, Settling Parties shall use their best efforts to obtain all access agreements within forty-five (45) days after the Effective Date, or as otherwise specified in writing by the EPA Project Coordinator. Settling Parties shall immediately notify EPA if after using their best efforts they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" may include the payment of reasonable sums of money in consideration of access to property owners other than those EPA determines in writing may be potentially responsible parties with respect to the Site ("Non-PRP Owners") under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and to those to whom the Non-PRP Owners convey or have conveyed any property interest in such properties. Settling Parties shall describe in writing their efforts to obtain access. If Settling Parties cannot obtain access agreements, EPA may either (i) obtain access for Settling Parties or assist Settling Parties in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities itself; or (iii) terminate this Settlement Agreement. Settling Parties shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access which are not inconsistent with the NCP, in accordance with the procedures in Section XVIII (Payment of Future Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate this Settlement Agreement, Settling Parties shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs not inconsistent with the NCP incurred in performing such tasks or activities. Settling Parties shall integrate the results of any such tasks or activities undertaken by EPA into their Submissions required by this Settlement Agreement in accordance with the terms and provisions of this Settlement Agreement.

54. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Resource Conservation and Recovery Act, 42 U.S.C §§ 6901, *et seq*, and any other applicable statutes or regulations, and, except as provided in Section XXI (Covenant Not to Sue by Settling Parties), Settling Parties retain all of their rights and defenses they may have concerning such access and inspection authorities, rights and enforcement rights.

XIII. COMPLIANCE WITH OTHER LAWS

55. Settling Parties shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. As provided in Section 121(e) of CERCLA and Section 300.400(e) of the NCP, no local, state or federal permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires any permits, Settling Parties shall submit timely and complete applications and take all other actions necessary to obtain all such permits. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal, state or local statute or regulation.

XIV. RETENTION OF RECORDS

56. During the pendency of this Settlement Agreement and for a minimum of seven (7) years after commencement of construction of any remedial action at the Site, each Settling Party shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) which: (1) are now in its possession or control; (2) come into its possession or control; or (3) are in the possession or control of any of its officers, directors, employees, agents, contractors, consultants, successors or assigns that relate in any manner to the performance of the requirements of this Settlement Agreement or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary. Until seven (7) years after commencement of construction of any remedial action, Settling Parties shall also instruct their contractors and agents to preserve all documents, records, and other information of whatever kind, nature or description relating to performance of the requirements of this Settlement Agreement.

57. At the conclusion of this document retention period, Settling Parties shall notify EPA at least ninety (90) days prior to the destruction of any such documents, records or other information, and, upon request by EPA, Settling Parties shall deliver any such documents, records, or other information to EPA. Settling Parties may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by applicable law. If Settling Parties assert such a privilege, they shall provide EPA with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege asserted by Settling Parties. However, no documents, records or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

58. Each Settling Party hereby certifies individually that to the best of its knowledge and

belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since receipt of notification of potential liability by EPA or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

59. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section XV shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

60. If Settling Parties object to any EPA determination under this Settlement Agreement, including billings for Future Response Costs, they shall notify EPA in writing of their objection(s) within seventeen (17) days of such determination, unless the objection(s) has/have been resolved informally. EPA and Settling Parties shall have twenty-one (21) days from EPA's receipt of Settling Parties' written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted verbally but must be confirmed in writing.

61. Any agreement reached by the Parties pursuant to this Section XV shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA Region III management official at the level of the Associate Director, Office of Superfund Site Remediation, Hazardous Site Cleanup Division or higher will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Settling Parties' obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section XV; provided, however, that if Settling Parties prevail in the dispute, no Stipulated Penalties shall be due. Following resolution of the dispute, as provided by this Section XV, Settling Parties shall complete the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Settling Parties agree with the decision.

62. Notwithstanding any other provisions of this Settlement Agreement, no action or decision by EPA pursuant to this Settlement Agreement shall constitute final agency action giving rise to any right to judicial review prior to EPA's initiation of judicial action to compel compliance with this Settlement Agreement.

63. Neither invocation of the procedures set forth in this Section XV, nor EPA's consideration of matters placed into dispute, shall excuse, toll or suspend any compliance obligation or deadline required pursuant to this Settlement Agreement during the pendency of the dispute resolution process, provided, however, that if Settling Parties prevail in the dispute, no Stipulated Penalties shall be due.

64. The existence of a dispute under this Section shall not by itself expand the time frame for completing any work under this Settlement Agreement. Thus, in the event the Settling Parties prevail in the dispute, the task must be completed in the remaining amount of time originally specified in this Settlement Agreement unless the time frame is formally modified by EPA. Any such modifications to this Settlement Agreement shall be made in accordance with Section XXIX of this Settlement Agreement.

65. The accrual of stipulated penalties shall continue notwithstanding the existence of a dispute or invocation of the procedures set forth in this Section XV; provided, however, that if Settling Parties prevail in the dispute, no Stipulated Penalties shall be due.

66. In order to prevail in any dispute concerning costs under Section XVIII of this Settlement Agreement, Settling Parties shall have the burden of proving that such costs have been calculated incorrectly or have been incurred in a manner inconsistent with the NCP.

XVI. STIPULATED PENALTIES

67. Settling Parties shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 68 and 69 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Settling Parties shall include satisfactory and timely completion of the activities under this Settlement Agreement, including any activities required under any Submission approved by EPA under this Settlement Agreement.

68. For each day or portion of a day that Settling Parties fail to comply with a requirement of this Settlement Agreement, and except as specified in Paragraph 69, immediately below, stipulated penalties shall accrue in the amount of \$1,500 per day for the first ten (10) days, and \$4,000 per day for each day thereafter.

69. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 86 of Section XX (Reservations of Rights by EPA), Settling Parties shall be liable for a stipulated penalty in the amount of: (1) \$25,000 for takeover of a portion of the Work; and (2) \$50,000 for takeover of all of the Work.

70. Except as otherwise provided in this Paragraph, all penalties shall begin to accrue on the day that complete performance is due or the day a violation occurs, and shall continue to

accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Submissions), during the period, if any, beginning on the 25th day after EPA's receipt of such submission until the date that EPA notifies Settling Parties of any deficiency; and (2) with respect to a decision by the EPA Region III management official designated in Paragraph 61 of Section XV (Dispute Resolution), during the period, if any, beginning on the 17th day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute; and (3) during the period of any extension of time granted by EPA under Section XV (Dispute Resolution). Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

71. Following EPA's determination that Settling Parties have failed to comply with a requirement of this Settlement Agreement, EPA will give Settling Parties written notification of the same and describe the noncompliance. EPA will send Settling Parties a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph 70 regardless of whether EPA has notified Settling Parties of a violation.

72. All penalties accruing under this Section XVI shall be due and payable to EPA within thirty (30) days of Settling Parties' receipt from EPA of a demand for payment of the penalties, unless Settling Parties invoke the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to EPA under this Section XVI shall be paid by certified or cashier's check(s) made payable to "EPA-Hazardous Substances Superfund," shall be mailed to the following:

U.S. EPA, Region III
ATTENTION: Superfund Accounting
P.O. Box 360515
Pittsburgh, PA 15251-6515.

All payments shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number 03 GT, the EPA Docket Number CERC-03-2006-0051 RF, and the name and address of the Settling Parties making payment. Copies of the transmittal letters and the checks shall simultaneously be sent to EPA's Project Coordinator as provided in Paragraph 29, and to the following:

Docket Clerk (3RC00)
U. S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103.

73. The payment of penalties shall not alter in any way Settling Parties' obligation to

complete performance of the Work required under this Settlement Agreement.

74. Penalties shall continue to accrue as provided in Paragraph 70 during any dispute resolution period, but need not be paid until twenty (20) days after the dispute is resolved by agreement or by receipt of EPA's written decision.

75. If Settling Parties fail to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Settling Parties shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 72.

76. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Settling Parties' violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is demanded herein, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservations of Rights by EPA), Paragraph 86. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

77. Settling Parties agree to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by *force majeure* or by agreement of the Parties. For purposes of this Settlement Agreement, *force majeure* is defined as any event arising from causes beyond the control of Settling Parties or of any entity controlled by Settling Parties, including but not limited to their contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Settling Parties' best efforts to fulfill the obligation in a timely and complete manner. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

78. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Settling Parties shall notify EPA orally within fifteen (15) days of when Settling Parties first knew or should have known through the exercise of due diligence that the event might cause a delay. Within seven (7) days thereafter, Settling Parties shall provide to EPA in writing an explanation

and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Settling Parties' rationale for attributing such delay to a *force majeure* event if they intend to assert such a claim; and a statement as to whether, in the opinion of Settling Parties, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall preclude Settling Parties from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

79. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as EPA determines is necessary to complete those obligations and which shall be at least the duration of the *force majeure* event, unless Settling Parties indicate that a lesser time is achievable. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation except where EPA has determined that such obligations are dependent or contingent on the activity or Submission so delayed. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Settling Parties in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Settling Parties in writing of the length of the extension for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF FUTURE RESPONSE COSTS

80. Payments of Future Response Costs.

a. Settling Parties shall pay EPA all Future Response Costs, except as otherwise provided in Paragraph 82 of this Settlement Agreement. On an annual basis, EPA will send Settling Parties a bill requiring payment that includes a cost summary, which includes direct and indirect costs incurred by EPA and its contractors and agents. Settling Parties shall make all payments within forty-five (45) days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 82 of this Settlement Agreement. All payments to EPA under this Section shall be paid by certified or cashier's check(s) made payable to "EPA-Hazardous Substances Superfund," and shall be mailed to the following:

U.S. EPA, Region III
ATTENTION: Superfund Accounting
P.O. Box 360515
Pittsburgh, PA 15251-6515.

All payments shall indicate that the payment is for Future Response Costs, and shall reference the

EPA Region and Site/Spill ID Number 03 GT, the EPA Docket Number CERC-03-2006-0051 RF, and the name and address of the parties making payment. Copies of the transmittal letters and the checks shall simultaneously be sent to EPA's Project Coordinator as provided in Paragraph 29, and to the following:

Docket Clerk (3RC00)
U. S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103.

b. The total amount to be paid by Settling Parties pursuant to Subparagraph 80.a shall be deposited in the 68th Street Dump Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

81. If Settling Parties do not pay Future Response Costs within forty-five (45) days of Settling Parties' receipt of a bill, Settling Parties shall pay Interest on the unpaid balance of Future Response Costs, respectively. The Interest on unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph 81 shall be in addition to such other remedies or sanctions available to the United States by virtue of Settling Parties' failure to make timely payments under this Section XVIII, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Settling Parties shall make all payments required by this Paragraph 81 in the manner described in Paragraph 80.

82. Settling Parties may contest payment of any Future Response Costs under Paragraph 80 if they determine that EPA has made an accounting error or if they believe EPA incurred costs as a result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within forty-five (45) days of receipt of the bill and must be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, Settling Parties shall within the forty-five (45) day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 80. Simultaneously, Settling Parties shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of Maryland and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Settling Parties shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment

of the escrow account, Settling Parties shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within ten (10) days of the resolution of the dispute, Settling Parties shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 80. If Settling Parties prevail concerning any aspect of the contested costs, Settling Parties shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in Paragraph 80 and Settling Parties shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph 82 in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Settling Parties' obligation to reimburse EPA for its Future Response Costs.

XIX. COVENANT NOT TO SUE BY EPA

83. In consideration of the actions that will be performed and the payments that will be made by Settling Parties under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Settling Parties pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a), for the Work and Future Response. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Settling Parties of all obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Section XVIII. This covenant not to sue extends only to Settling Parties and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

84. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Settling Parties in the future to perform additional activities pursuant to CERCLA or any other applicable law.

85. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Parties with respect to all other matters, including, but not limited to:

a. claims based on a failure by Settling Parties to meet a requirement of this Settlement Agreement;

- b. liability for costs not included within the definition of Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site; and
- g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

86. Work Takeover. In the event EPA determines that Settling Parties have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Settling Parties may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph 86. Costs incurred by EPA in performing the Work pursuant to this Paragraph 86 shall be considered Future Response Costs which Settling Parties shall pay pursuant to Section XVIII (Payment of Future Response Costs). Unless otherwise provided in EPA's determination to take over the Work, Settling Parties shall not be released from their obligations under this Settlement Agreement to perform any Work required by this Settlement Agreement other than the Work taken over by EPA and shall remain subject to stipulated penalties and responsible for reimbursement of oversight costs relating to all such Work. Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law; except as provided in Section XXI (Covenant Not to Sue by Settling Parties), Settling Parties retain the right to object to or defend against such response actions.

XXI. COVENANT NOT TO SUE BY SETTTLING PARTIES

87. Except as provided in Paragraph 87.c, Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Settlement Agreement, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113

of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which the Future Response Costs have been or will be incurred, including any claim under the United States Constitution, the Maryland Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or Future Response Costs, except to the extent that the United States is a "covered person" with respect to the Site under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

88.a. Except as expressly provided in Section XXII, Paragraphs 90 and 91 (Non-Exempt De Micromis Waiver) and Paragraphs 92 and 93 (MSW Waiver), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Subparagraphs 85(b), (c) and (e) - (g), but only to the extent that Settling Parties' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

b. Settling Parties reserve, and this Settlement Agreement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, any such claim shall not include a claim for any damages caused, in whole or in part, by the act or omission of any person, including any contractor, who is not a federal employee as that term is defined in 28 U.S.C. § 2671; nor shall any such claim include a claim based on EPA's selection of response actions, or the oversight or approval of the Settling Parties' plans or activities. The foregoing applies only to claims which are brought pursuant to any statute other than CERCLA and for which the waiver of sovereign immunity is found in a statute other than CERCLA.

89. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

90. Settling Parties agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Parties with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred

before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials (or such greater or lesser amounts as the EPA Administrator may determine by regulation) ("de micromis exemption"). The burden of proof that the conditions of this Paragraph 90 de micromis exemption have not been met shall be in accordance with Section 107(o)(4) of CERCLA, 42 U.S.C. § 9607(o)(4).

91. The de micromis exemption waiver in Paragraph 90, immediately above, shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Settling Party. This waiver also shall not apply to any claim or cause of action against any person meeting the above de micromis exemption criteria if:

a. EPA determines, as provided in Section 107(o)(2)(A)(i) and (ii) of CERCLA, that such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site; or that the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site; or

b. as provided in Section 107(o)(2)(B) of CERCLA, such person has been convicted of a criminal violation for the conduct to which the de micromis exemption would apply and that conviction has not been vitiated on appeal or otherwise.

92. Settling Parties agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against any person where the person's liability to Settling Parties with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of Municipal Solid Waste ("MSW") at the Site, if the volume of MSW disposed, treated or transported by such person to the Site did not exceed 0.2 percent of the total volume of waste at the Site ("MSW exemption"). The burden of proof that the conditions of this Paragraph 92 MSW exemption have not been met shall be in accordance with Section 107(p)(5) of CERCLA, 42 U.S.C. § 9607(p)(5).

93. The MSW exemption waiver in Paragraph 92, immediately above, shall not apply with respect to any defense, claim, or cause of action that a Settling Party may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against such Settling Party. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines, as provided in Section 107(p)(2) of CERCLA, that: (a) the MSW contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural

resource restoration at the Site; (b) the person has failed to comply with any information request or administrative subpoena issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. § 9604(e) or § 9622(e); or (c) the person impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site.

XXII. OTHER CLAIMS

94. By issuance of this Settlement Agreement, EPA assumes no liability for injuries or damages to persons or property resulting from any acts or omissions of Settling Parties.

95. Except as expressly provided in Section XXI, Paragraphs 90 and 91 (Non-Exempt De Micromis Waiver) and Paragraphs 92 and 93 (MSW Waiver), and Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Settling Parties or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

96. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION

97. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Parties are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Future Response Costs.

98. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Settling Parties have resolved their liability to the United States for the Work and Future Response Costs.

99. Except as provided in Section XXI (Covenant Not to Sue by Settling Parties), Paragraphs 90 and 91 of this Settlement Agreement (Non-Exempt De Micromis Waiver), and Paragraphs 92 and 93 (MSW Waiver), nothing in this Settlement Agreement precludes the United States or Settling Parties from asserting any claims, causes of action, or demands against any person not a party to this Settlement Agreement for indemnification, contribution, or cost

recovery. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and (3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIV. INDEMNIFICATION

100. Settling Parties shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Settling Parties, their officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Settling Parties agree to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Settling Parties, their officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Settling Parties in carrying out activities pursuant to this Settlement Agreement. Unless necessary for the purpose of EPA's providing the Settling Parties with access to the Site, neither Settling Parties nor any such contractor shall be considered an agent of the United States.

101. The United States shall give Settling Parties notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Settling Parties prior to settling such claim.

102. Settling Parties waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Parties and any person for performance of Work on or relating to the Site. In addition, Settling Parties shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between any one or more of Settling Parties and any person for performance of Work on or relating to the Site.

XXV. INSURANCE

103. At least thirty (30) days prior to commencing any On-Site Work under this Settlement Agreement, Settling Parties shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit, naming the EPA as an additional insured.

Within the same period, Settling Parties shall, upon EPA request, provide EPA with certificates of such insurance and a copy of each insurance policy. Settling Parties shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of this Settlement Agreement, Settling Parties shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Settling Parties in furtherance of this Settlement Agreement. If Settling Parties demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Settling Parties need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. FINANCIAL ASSURANCE

104. Within sixty (60) days of the Effective Date, Settling Parties shall establish and maintain financial security for the benefit of EPA in the amount of \$ 2,000,000 in one or more of the following forms, in order to secure the full and final completion of Work by Settling Parties:

a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;

b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA equaling the total estimated cost of the Work;

c. a trust fund administered by a trustee acceptable in all respects to EPA;

d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;

e. a corporate guarantee to perform the Work provided by one or more parent corporations or subsidiaries of Settling Parties, or by one or more unrelated corporations that have a substantial business relationship with at least one of Settling Parties; including a demonstration that any such company satisfies the financial test requirements of 40 C.F.R. § 264.143(f); and/or

f. a corporate guarantee to perform the Work by one or more of Settling Parties, including a demonstration that any such Settling Party satisfies the requirements of 40 C.F.R. § 264.143(f). If the Settling Party seeking to provide a demonstration under 40 C.F.R. § 264.143(f) has provided similar demonstrations at other RCRA or CERCLA sites, the amount of financial assurance for such sites may be supplemented by the amount stated above.

105. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Settling Parties shall, within forty-five (45) days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 105, above. In addition, if at any time EPA notifies Settling Parties that the anticipated cost of completing the Work has increased, then, within forty-five (45) days of such notification, Settling Parties shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Settling Parties' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

106. If Settling Parties seek to ensure completion of the Work through a guarantee pursuant to Subparagraphs 104.e. or 104.f. of this Settlement Agreement, Settling Parties shall (i) demonstrate to EPA's satisfaction that the guarantor satisfies the requirements of 40 C.F.R. § 264.143(f); and (ii) resubmit sworn statements conveying the information required by 40 C.F.R. § 264.143(f) annually, on the anniversary of the Effective Date, to EPA. For the purposes of this Settlement Agreement, wherever 40 C.F.R. § 264.143(f) references "sum of current closure and post-closure costs estimates and the current plugging and abandonment costs estimates," the current cost estimate for the Work at the Site (currently \$2,000,000) shall be used in relevant financial test calculations.

107. If, after the Effective Date, Settling Parties can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 105 of this Section XXVI, Settling Parties may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Settling Parties shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA. In the event of a dispute, Settling Parties may seek dispute resolution pursuant to Section XXVII (Dispute Resolution). Settling Parties may reduce the amount of security in accordance with EPA's written decision resolving the dispute.

108. Settling Parties may change the form of financial assurance provided under this Section XXVI at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section. In the event of a dispute, Settling Parties may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

XXVII. INTEGRATION/APPENDICES

109. This Settlement Agreement and its appendices and any Submissions (other than progress reports) etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the list of the 68th Street Dump Superfund Site Group

"Appendix B" is the map of the Site.

"Appendix C" is the Statement of Work for the Site.

XXVIII. ADMINISTRATIVE RECORD

110. EPA will determine the contents of the administrative record file for selection of the remedial action. Settling Parties shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of EPA, Settling Parties shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of EPA, Settling Parties shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Settling Parties and state, local or other federal authorities concerning selection of the response action. At EPA's discretion, Settling Parties shall establish a community information repository at or near the Site, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

111. This Settlement Agreement shall be effective thirty (30) days after the Settlement Agreement is signed by the Director, Hazardous Site Cleanup Division, EPA Region III or his/her delegatee.

112.a. This Settlement Agreement may be amended by mutual agreement of EPA and Settling Parties. Amendments shall be in writing and shall be effective when signed by the Director, Hazardous Site Cleanup Division, EPA Region III or his/her delegatee. Schedules specified in this Settlement Agreement for completion of the Work may be modified by

agreement of both Project Coordinators. All such modifications shall be made in writing.

b. Minor modifications to the requirements of any EPA-approved Submission, specifically those which do not materially or significantly affect the nature, scope, or timing of the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

113. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

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114.a. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations set forth in Paragraph 114.b, below, EPA will provide written notice to Settling Parties. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Settling Parties, provide a list of the deficiencies, and require that Settling Parties modify the applicable Submission if appropriate in order to correct such deficiencies, in accordance with Paragraph 34 (Modification of Submissions). Failure by Settling Parties to implement the EPA- approved modified Submission shall be a violation of this Settlement Agreement. If EPA determines that Settling Parties have completed the Work in accordance with this Settlement Agreement, EPA will so notify Settling Parties in writing ("EPA's Work Completion Notice").

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 15th day of March, 2006.

For Settling Party Air Products and Chemicals, Inc.

By:  TS

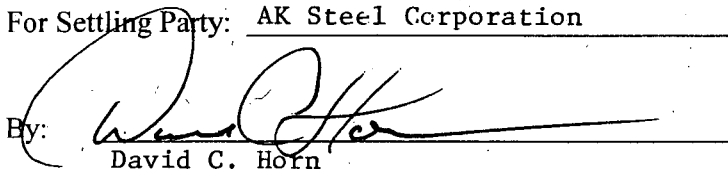
Title: Vice President-North America Gases

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 14th day of March, 2006.

For Settling Party: AK Steel Corporation

By:


David C. Horn

Title:

SVP, GC & Secretary

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

113. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

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Agreed this 21st day of MARCH, 2006.

For Settling Party Baltimore Gas and Electric Company

By: Kenneth W. DeFontaine

Title: President and Chief Executive Officer

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 20th day of March, 2006.

For Settling Party Beezy East, Inc.

By: [Signature] (Robert S. Markwell)

Title: Vice President

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 8th day of March, 2006.

For Settling Party BROWNING-FERRIS, Inc. (MD)

By: [Signature]

Title: Corporate Secretary

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 15 day of March, 2006.

For Settling Party: Chevron Environmental Management Company,
for itself and on behalf of Kewanee Industries, Inc.

By: Robert R. [Signature]
Title: Assistant Secretary

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon the Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 17 day of March, 2006.

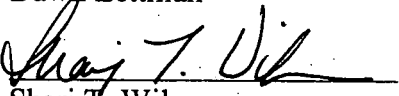
For Settling Party: Mayor and City Council of Baltimore

By:
Title:


Director, Department of Public Works

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
THIS 16th DAY OF March,
2006.


Dawn Lettman


Shari T. Wilson
Assistant City Solicitors

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 20th day of March, 2006.

For Settling Party Constellation Power Source Generation, Inc.

By: _____

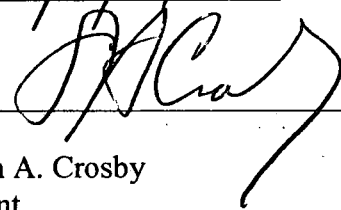
John T. Long

Title: President, Constellation Power Source Generation, Inc.

The undersigned SETTLING PARTY enters into this ADMINISTRATIVE
SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL
INVESTIGATION/ FEASIBILITY STUDY In the Matter of:
68th Street Dump Superfund Site, City of Baltimore and Near the Rosedale Area of
Baltimore County, MD 21237.

FOR SETTLING PARTY CSX REALTY DEVELOPMENT, L L C.

Date: 3/17/06

By: 


Stephen A. Crosby
President
CSX Realty Development, L L C.
301 West Bay Street
Jacksonville, Florida 32202

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SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL
INVESTIGATION/ FEASIBILITY STUDY In the Matter of:
68th Street Dump Superfund Site, City of Baltimore and Near the Rosedale Area of
Baltimore County, MD 21237.

FOR SETTLING PARTY CSX TRANSPORTATION, INC.:

Date: 3/15/06

By: 

Carl A. Gerhardstein
Senior Director Environmental
CSX TRANSPORTATION, INC.
500 Water Street (J-275)
Jacksonville, Florida 32202
(904) 366-4303

Active\DEFSERVER\ACTIVE\1204\3613630.1

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 14 day of March, 2006.

For Settling Party: Exxon Mobil Corporation

By: Z. K. Bolen Zane K. Bolen

Title: Area Manager, Superfund

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

113. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

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Agreed this 13 day of March, 2006.

For Settling Party GENERAL MOTORS CORPORATION

By: James P. Walk

Title: Attorney

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Agreed this 20 day of March, 2006.

For Settling Party Honeywell International Inc.

By: John J. Monahan

Title: Remediation Portfolio Dir

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b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 17 day of March, 2006.

For Settling Party Illinois Tool Works Inc.

By: [Signature]

Title: Assoc. General Counsel

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 14 day of MARCH, 2006.

For Settling Party: INDUSTRIAL ENTERPRISES, INC.

By: E Robert Chertkof

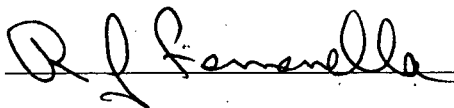
Title: President

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 10th day of March, 2006.

For Settling Party: Lucent Technologies Inc., successor in interest to AT&T Corporation, AT&T Technologies Inc. and Western Electric Company

By:

A handwritten signature in dark ink, appearing to read "R. J. Fennella", is written over a horizontal line.

Title: Environmental Health & Safety Vice President

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.

Agreed this 22 day of March, 2006.

For Settling Party: Millennium Holdings, LLC

By: Deborah W. Kryak
Deborah Kryak

Title: Director, Remediation and Retained Liabilities

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

113. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

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Agreed this 14 day of March, 2006.

For Settling Party Napell Corporation

By: Margaret W. DeWan

Title: Senior Counsel



Kirkpatrick & Lockhart Nicholson Graham LLP
A Delaware limited liability partnership

One Newark Center
Tenth Floor
Newark, NJ 07102-5252
973.848.4000
Fax 973.848.4001
www.klmg.com

March 27, 2006

Catherine A. Trinkle

973.848.4052
Fax: 973.848.4001
ctrinkle@klmg.com

VIA FEDERAL EXPRESS

Mr. Christopher Corbett (3HS22)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

Re: 68th Street Site
Executed Signature Page for RI/FS ASAOC
Alcolac, Inc./Bayer CropScience Inc.

Dear Mr. Corbett:

Pursuant to Kate Whitby's March 24, 2006 letter, enclosed please find Alcolac, Inc.'s ("Alcolac") original signature page to the 68th Street Site Remedial Investigation and Feasibility Study ("RI/FS") Administrative Settlement Agreement and Order on Consent ("ASAOC"). Like the signature pages submitted with Ms. Whitby's letter, Alcolac's signature page is being submitted subject to review of a "final" ASAOC with a corrected caption and revised Paragraph 18 identifying the signing companies as participants under the ASAOC. In addition, in executing and submitting the enclosed ASAOC signature page, Alcolac admits no liability and preserves all its defenses and claims concerning the 68th Street Site, except as expressly stated otherwise in the ASAOC. Nothing in this letter or in the ASAOC is intended by Alcolac, or can be interpreted against it, as an admission or acknowledgment of liability, a waiver or release of defenses, or as acceptance, acknowledgement, agreement, or concession of or to any statement of fact or question of law set out in the ASAOC, and Alcolac specifically reserves and will continue to assert all rights, claims, or defenses available to it as if this letter and the ASAOC did not exist, again except as specifically provided for in the ASAOC.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

Catherine A. Trinkle

CAT:kc
Enclosure

cc: Michael A. Hendershot, Esquire (via regular mail)
ASAOC Signatory Companies (via e-mail)

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

113. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Settling Parties shall relieve Settling Parties of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

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Agreed this 27 day of MARCH, 2006.

For Settling Party SMURFIT-STONE CONTAINER ENTERPRISES, INC.

By: [Signature]

Title: ASSISTANT GENERAL COUNSEL

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 24 day of March, 2006.

For Settling Party : Alcolac, Inc. on behalf of itself and
Bayer CropScience Inc.

By: 
Fred Ellerbusch, PhD, PE, DEE

Title: Director, Manufacturing Services

the work to be performed, may be made by mutual agreement of the Project Coordinators. Any such modifications must be in writing and signed by both Project Coordinators. The effective date of the modification shall be the date on which the letter from EPA's Project Coordinator is signed.

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Agreed this 5th day of April, 2006.

For Settling Party Water Applications Systems Corporation signing for U.S. Fitter Corporation and
U.S. Fitter Recovery Services Mid-Atlantic, Inc.

By: John C. Cayne

Title: Director - Environmental Affairs

b. Settling Parties' obligations to EPA to perform the Work under this Settlement Agreement shall be deemed satisfied upon Settling Parties' receipt of EPA's Work Completion Notice. Settling Parties' receipt of EPA's Work Completion Notice shall not terminate Settling Parties' obligations to comply with the Records Preservation, Reservation of Rights, Indemnification, Compliance with Other Laws and Payment of Future Response Costs provisions of this Settlement Agreement.


Agreed this 5th day of April, 2006.

For Settling Party: Water Applications & Systems Corporation signing for
US Filter Corporation and U.S. Filter Recovery Services
Mid Atlantic, Inc.

By: Ann C. Coyne

Title: Director - Environmental Affairs

It is so AGREED this 27th day of April, 2006.

BY:  DATE: 4/27/06

Abraham Ferdas, Director
Hazardous Site Cleanup Division
United States Environmental Protection Agency
Region III

APPENDIX A

68th Street Dump Superfund Site Group

Air Products and Chemicals, Inc.

AK Steel Corporation

Baltimore Gas and Electric Company

Beazer East, Inc.

Browning-Ferris, Inc.

Constellation Power Source Generation, Inc.

CSX Realty Development, LLC

CSX Transportation, Inc.

Exxon Mobil Corporation

General Motors Corporation

Illinois Tool Works Inc.

Industrial Enterprises, Inc.

Kewanee Industries, Inc.

Lucent Technologies Inc.

The Mayor and City Council of Baltimore, Maryland

Millennium Holdings, LLC

Noxell Corporation

U.S. Filter Recovery Services Mid-Atlantic, Inc.

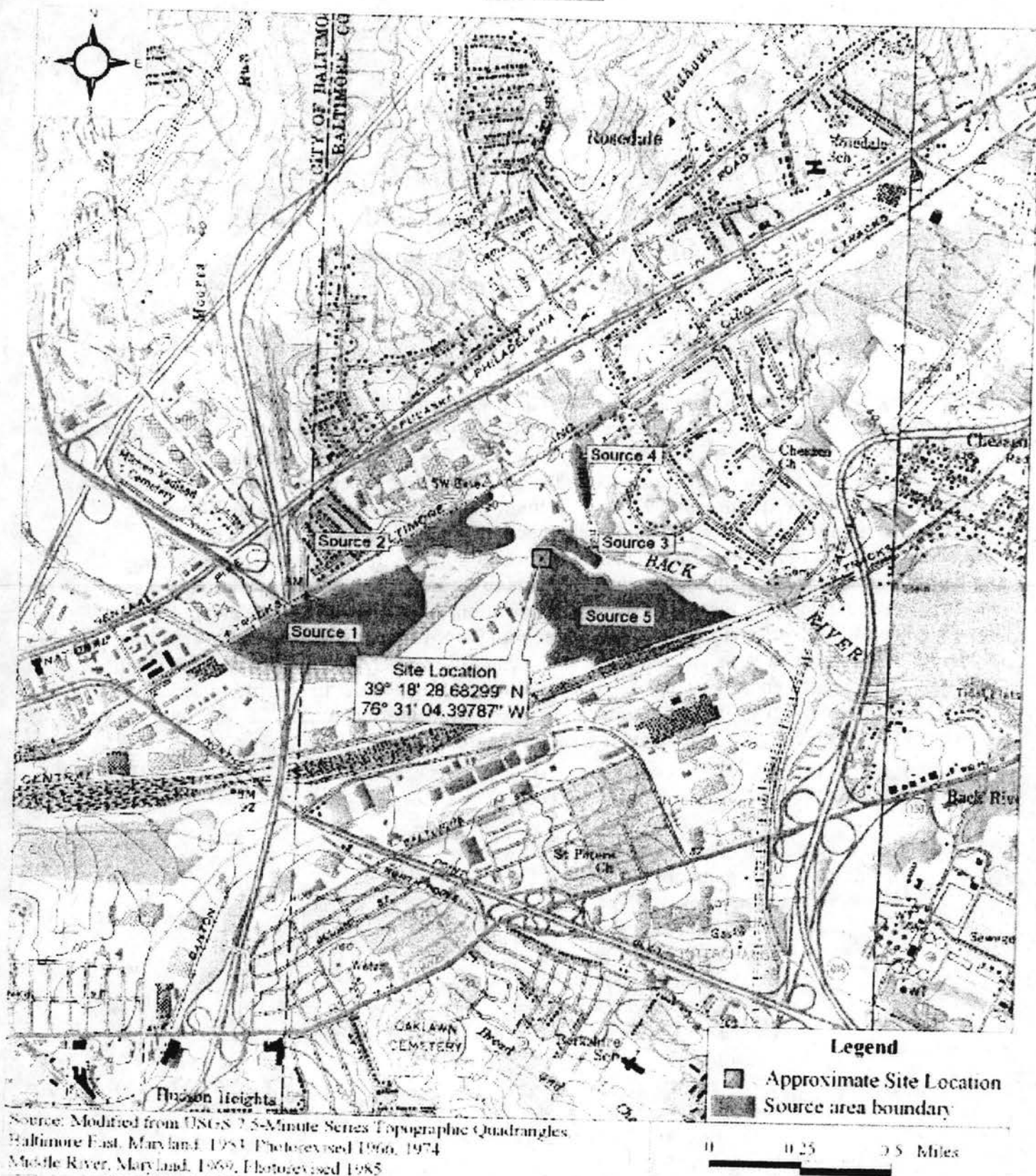
Honeywell International Inc.

Alcolac, Inc.

Bayer CropScience Inc.

Smurfit-Stone Container Enterprises, Inc.

Chevron Environmental Management Company



68th Street Dump Site
 Rosedale, Baltimore County & City of Baltimore, Maryland

Figure 1
 Site Location Map

IDD No. SF-4-12-07-021
 EPA Contract No. 68-S3-00-02



Tetra Tech EM Inc.
 AR100070

APPENDIX C

Statement of Work Remedial Investigation and Feasibility Study 68th Street Dump Superfund Site Baltimore, Maryland

1. Purpose

The Settling Parties to the Administrative Settlement Agreement and Order on Consent (Settlement Agreement), CERCLA Docket No. CERC-03-2006-0051 RF shall comply with all of the requirements set forth in this Statement of Work (SOW) in the time and manner set forth herein. USEPA has identified the Site as a Superfund Alternative Process Site (SAS Process Site) pursuant to OSWER Directive 9208.0-18 (June 17, 2004). In this regard, the Site will be divided into separate areas based on similarities such as previous operations, future development potential or amount of existing data. This will allow for portions of the Site to proceed through the RI/FS process in an expeditious manner, while more complex areas can be concurrently addressed without delaying the entire Site characterization, remediation and redevelopment. Dividing the Site into different areas is consistent with the SAS Process and will allow portions of the Site to be returned to beneficial use in an expeditious manner. Except for the Health and Safety Plan, all plans, reports or other deliverables submitted by the Settling Parties pursuant to this SOW will be subject to USEPA review and approval pursuant to Section X of the Settlement Agreement in accordance with the schedules set forth herein.

2. Scope

The tasks to be completed as part of the RI/FS are:

- ° Project Management Plan
- ° Program Management Plan
 - Data Gap Analysis
 - Regulatory Strategy
 - Reuse Evaluation
 - Preliminary Risk Evaluation
 - Delineation of Parcels and Redevelopment Scheme
 - Schedule
- ° Site-Wide Work Plans
 - Field Sampling Plan
 - Quality Assurance Project Plan
 - Health and Safety Plan
 - Risk Assessment Work Plan
- ° Community Relations Plan
- ° Parcel-Specific RI/FS Work Plans
- ° Site Characterization (a Focused Remedial Investigation)
 - Investigate and Confirm Current Site Environmental Conditions

- Delineate Continuing Sources of Contamination
- Evaluate Site Physical and Biological Characteristics
- Conduct Baseline Risk Assessment
- ° Parcel-Specific Focused Remedial Investigation Report(s)
- ° Parcel-Specific Focused Feasibility Study(ies)
 - Development of Remedial Action Objectives
 - Identification of Applicable or Relevant and Appropriate Requirements
 - Development of General Remedial Actions
 - Identification and Screening of Remedial Technologies
 - Assembly of Alternatives
 - Screening and Assessment of Alternatives
- ° Reuse Assessment(s)

Each task is described in the sections that follow:

3. Task 1 Project Management Plan

The Settling Parties shall prepare and submit to USEPA for review and approval a Project Management Plan (PMP) that establishes the project organization, with delegation from the Project Manager to individual key personnel. The Project Management Plan shall identify the USEPA-accepted Project Coordinator, including qualifications for key personnel and other pertinent information.

Project management for the 68th Street Superfund Site (Site) will encompass a number of important activities, including development of the PMP and the associated schedule, preparation of routine status reports, milestone presentations, maintenance of the project repository and administrative records, regulatory interactions, and public involvement. The PMP shall define the initial project approach and lines of communication. The PMP is a dynamic planning and execution document, which shall be developed during initial task execution. The PMP shall be updated as needed to reflect the current status and strategies of the actions at the Site on an as needed basis.

4. Task 2 Program Management Plan

The Settling Parties shall prepare and submit to USEPA for review and approval a Site-Wide Program Management Plan (SWPMP) to formulate a baseline understanding of the environmental, risk, redevelopment, and regulatory elements of the project. This plan shall serve as a roadmap for the implementation and sequencing of activities required in this SOW. The objectives of this plan include: 1) review the existing environmental and ecological data (including historical aerial photography) to prepare a foundation of information upon which to formulate project strategies; 2) prepare a brief overview of the re-use opportunities and market potential; 3) delineate Site parcels to integrate environmental and redevelopment concepts; and, 4) prioritize parcel sequencing for implementation of this SOW.

These objectives have been addressed in principal and are summarized in Appendix A to this SOW. The existing environmental data for the Site have been compiled into a database to serve as the baseline for the Data Gap Analysis (DGA) specified under this SWPMP. Based on this database, an Interim DGA is presented in Appendix A as the foundation for the Final DGA. In parallel, a Conceptual Redevelopment Plan (CDRP) has also been presented to serve as the baseline for the subsequent Reuse Evaluation.

All information reviewed for the preparation of the SWPMP shall be obtained from previous work, existing files, and a Site inspection. Intrusive work; e.g., field sampling and analysis, for each parcel delineated within this plan and associated with the RI/FS shall be determined within Parcel-specific RI/FS Work Plans to be prepared subsequent to the approval of the SWPMP and as presented in this SOW. The SWPMP shall include the components presented in the following subsections.

4.1 Data Gap Analysis

The Settling Parties shall compile and review all reasonably available existing information and data for the Site. The data shall be used to prepare a factual summary of the historical data and create a baseline of sample locations and known data. This information shall establish the foundation for evaluating the following issues:

1. sources of contaminants (including background), migration pathways, and receptors;
2. varieties and quantities of contaminants on Site;
3. physical and chemical characteristics of contaminants and affected media;
4. previous sample locations and areas that will require additional field work;
5. geology, hydrogeology, and hydrology of the Site;
6. ecological and sensitive areas on Site;
7. background characteristics for soil, surface-water, and sediments; and,
8. surface water use at and near the Site.

An Interim Data Gap Analysis (DGA) addressing the above components is presented in summary form in Appendix A; the Final DGA shall be a refinement of the Interim DGA. For the Final DGA, the Settling Parties shall supplement the available information, if possible, to further understand the conditions of the Site, to determine those areas of the Site for which the existing data enable an adequate understanding of the conditions, and to consider additional data needs. Existing data shall be considered to define background levels of hazardous substances, source areas of hazardous substances, to define pathways of hazardous substances migration, and to identify potential human or environmental receptors to the extent necessary to: a) enable risk assessments to determine if risk to human health or the environment exists; b) determine parcel areas and enable a priority system for implementation of the parcels; and, c) develop remedial action objectives and alternatives.

4.2 *Regulatory Strategy*

The Settling Parties shall evaluate various approaches for segmenting and completing the RI/FS in the context of the SAS Process. This approach shall enhance the opportunities for parceling, focusing the remedial investigations and feasibility studies that address potential reuse opportunities, and thereby accelerating reuse of selected parcels through the preparation of parcel-specific RI/FSs. The Regulatory Strategy shall establish mechanisms for the rapid and efficient transfer of parcels of real property that have proceeded through the SAS Process for remediation into the redevelopment arena; provided, however, Settling Parties shall comply with Section XIII of the Settlement Agreement.

The USEPA and Settling Parties will coordinate with the National Oceanographic and Atmospheric Administration and the U.S. Department of the Interior (collectively the "Trustees") early in the design of the SWPMP. The Settling Parties will work collaboratively through a partnership with the respective regulatory agencies throughout the RI/FS process, in order to both complement and support the technical work and relevant assumptions needed to make sound environmental and redevelopment decisions. Cooperation between the USEPA, the Trustees, the State of Maryland and the Settling Parties will be critical to the identification and development of solutions to potential barriers and to mitigate and/or resolve each obstacle as the project proceeds.

4.3 *Reuse Evaluation*

The Settling Parties shall prepare a preliminary re-use evaluation to provide an initial overview of the potential for Site-wide redevelopment. This evaluation will include a Site and infrastructure overview, as well as a brief market overview. The surrounding land use, existing infrastructure and development plans of local jurisdictions shall be considered in the overall evaluation. This analysis shall identify the potential opportunities and re-use alternatives that will be further detailed in subsequent efforts described in this SOW. The evaluation shall also consider which areas of the Site are most suited for redevelopment on a priority basis based on existing infrastructure and potential for infrastructure development, and those areas in which preservation and similar mitigation efforts may be most appropriate. The Reuse Evaluation shall be considered along with the other components of the SWPMP to both parcel and prioritize the investigation of the Site, and to implement any necessary response actions.

4.4 *Preliminary Risk Evaluation*

The Settling Parties shall conduct a Preliminary Risk Evaluation (PRE) which addresses current physical hazards and both human and ecological exposures. The PRE shall be undertaken prior to additional Site work to identify any data gaps that should be addressed with respect to completing the Baseline Risk Assessment.

As part of the PRE, the Settling Parties shall consider collectively chemicals and potential human and ecological receptors (animals and plants) to develop conceptual model(s) of

exposure. These conceptual models will serve not only to organize the information and structure the analyses, but also as communication tools within the community.

Because the Site is over 200 acres in size and consists of several environments (upland, riparian zones, flowing water bodies), and areas with differing development potential, the Settling Parties shall identify an optimal set of ecological zones for consideration. These ecological zones will serve as assessment units as well as for integrating ecological and natural resource considerations into the development process.

Once the ecological zones and conceptual models of human and ecological exposure are established, the concentrations of chemicals in various media shall be screened against established criteria, guidelines and background to identify chemicals of potential concern (COPES) for human health and chemicals of potential environmental concern (COPECK). The conceptual models together with the available data will be used to determine whether exposure pathways are complete; i.e., there exists a nexus between COPES/COPECK in a medium and potential receptors. The Settling Parties shall use these completed exposure pathways to structure the risk evaluation for each of the ecological zones.

The product of the PRE includes: 1) identification of physical hazards (e.g., drums with liquids, rail crossings, access to Source Area 3 (Island Landfill), etc.); 2) delineation of the ecological zones; 3) selection of COPES and COPECK; 4) identification of potentially complete exposure pathways; and, 5) identification of potential data gaps with respect to quantifying potential human and ecological risks.

4.5 Delineation of Parcels and Redevelopment Scheme

Based on the review of the existing chemical analytical data and the results of the Final DGA, the historical aerial survey interpretation of filled areas by date, the preliminary risk evaluation, and the Reuse Evaluation, the Settling Parties shall parcel the Site to most effectively integrate the environmental, risk, and land re-use issues and opportunities. The parcels will be identified in a logical manner to efficiently manage the environmental and risk conditions while integrating the redevelopment concepts. The parcels will serve as the basis for prioritizing, sequencing and focusing the subsequent investigation and feasibility studies, and subsequent design and implementation activities in a streamlined manner. Parceling of the Site will consider the following issues:

1. type of potential re-use; i.e., active or passive, relative to the existing environmental and risk conditions at the Site;
2. contaminants, transport mechanisms, receptors and human health and environmental risks;
3. access to the parcel;
4. surrounding land use;
5. existing infrastructure;
6. natural resources;
7. establishment of preservation areas and open space;

8. current zoning; and,
9. community interests.

By following the SAS Process and parceling concept, specific parcels will be prioritized such that the subsequent parcel-specific RI/FS, design, and implementation processes can be streamlined to expedite redevelopment or reuse of specific areas of the Site.

4.6 Schedule

Settling Parties shall prepare a schedule for the various components and associated tasks presented in this SOW and identified within the SWPMP. The schedule shall include the preparation of the initial plans and reports required for submission to the USEPA, as well as the prioritization of the parcels. A schedule of the detailed activities required during the RI/FS shall be presented within the Parcel-Specific RI/FS Work Plan for each designated parcel, as discussed in a subsequent section of this SOW.

5. Task 3 Site-Wide RI/FS Work Plan

5.1 Field Sampling Plan

The Settling Parties shall prepare a baseline Site-wide Field Sampling Plan (FSP) to provide personnel with detailed instructions and procedures regarding field activities to be performed in support of Site characterization and to document the field activities performed at the Site. The FSP shall contain a description of the field investigation methodologies required to complete the Site characterization process at each of the parcels identified. Parcel-specific RI/FS Work Plans that further define the scope of activities at each individual parcel shall reference this plan for the general procedures to be used in completing the prescribed field activities.

5.2 Quality Assurance Project Plan

The Settling Parties shall prepare a baseline Quality Assurance Project Plan (QAPP) that is Site-specific and covers sample analysis and data handling for samples collected during the RI/FS in accordance with applicable USEPA guidance. In particular the QAPP shall be prepared in accordance with "EPA Requirements of Quality Assurance Project Plan (QA/R-5)" (EPA, 2001) and "EPA Guidance for Quality Assurance Project Plan (QA/G-5)" (EPA (1998).

The laboratory shall have and follow an USEPA-approved QA program. The Settling Parties shall only use laboratories which have a documented Quality Assurance Program which complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs."

The Settling Parties shall ensure that analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

5.3 Health and Safety Plan

The Settling Parties shall prepare a baseline Health and Safety Plan that conforms to both the Settling Parties' health and safety program and complies with the Occupational Safety and Health Administration (OSHA) regulations and protocols outlined in Title 29 of the Code of Federal Regulations (CFR), Part 1910.

The Health and Safety Plan shall include the eleven (11) elements described in the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), such as a health and safety risk analysis, a description of monitoring and personal protective equipment, medical monitoring, and Site control.

The Health and Safety Plan must, at a minimum, follow the USEPA's guidance document Standard Operating Safety Guides (Publication 9285.1-03, PB92-963414, June 1992) or subsequently issued guidance.

USEPA will not approve the Health and Safety Plan, but rather will review and accept it to ensure that all the necessary elements are included, and that the plan provides for the protection of human health and the environment, and after that review provides comments as may be necessary and appropriate.

5.4 Risk Assessment Work Plan

The Settling Parties shall prepare a Risk Assessment Work Plan to provide the basic approach, preliminary conceptual Site model, and methodologies that will be used to evaluate potential risks to human health and the environment at the Site. The Risk Assessment Work Plan is intended to facilitate both the preparation and review processes for the risk-related documents that will be prepared to support the remedial decisions for each parcel. As a result of Site-wide parceling and prioritizing, multiple risk assessments may be required. The goal of Risk Assessment Work Plan is to ensure that the risk assessment approach for each parcel will follow a clearly described and consistent process that is compatible with current USEPA guidance.

The Settling Parties shall prepare the ecological portion of the Risk Assessment Work Plan using information gathered during the PRE. Specifically, the Work Plan shall describe how risks will be assessed for each of the exposure zones. The Work Plan will serve as the Problem Formulation stage of the assessment and will identify Assessment Endpoints, the narrative statements that are the focus of the assessment. For each of the Assessment Endpoints, the Work Plan shall describe how exposure and effects will be evaluated and the types of data that will be relied upon. The Work Plan shall also describe how natural resource considerations will be integrated into the assessment. The Work Plan shall be detailed with procedures that will be used to quantify risks. In addition, to the extent possible, it will identify how the results will be evaluated.

6. Community Relations Plan

The Settling Parties shall provide community relations technical support to the USEPA during the RI and FS phases of the project and during the conduct of community relations activities relating to the studies concerning the contamination at the Site and the redevelopment and reuse of the Site. In conjunction with the USEPA, the Settling Parties shall prepare the required Community Relations Plan (the CRP) in accordance with USEPA guidance and the NCP. As requested by USEPA, Settling Parties shall provide technical information supporting USEPA's CRP and shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by USEPA to explain activities at or concerning the Site. The CRP will provide information for dissemination to local residents and other concerned interest groups that the PRPs are conducting the RI/FS at the Site in the context of the SAS Process.

7. Parcel-Specific RI/FS Work Plans

The Settling Parties shall prepare for USEPA review and approval Parcel-Specific RI/FS Work Plans in the appropriate sequence. These plans shall incorporate, by reference, applicable sections of the Site-wide Field Sampling Plan (FSP), Quality Assurance Project Plan (QAPP), and Risk Assessment Work Plan. The health and safety requirements for all fieldwork shall be included in the Site-Wide Health and Safety Plan.

The purpose of Parcel-Specific RI/FS Work Plans is to facilitate the collection and analysis of the data necessary to complete the focused RI/FS and Reuse Assessments. The plans shall also present parcel-specific data quality objectives (DQOs).

8. Site Characterization (a Focused Remedial Investigation)

The Settling Parties shall verbally notify USEPA a minimum of 30 days in advance of any sample collection activity. At USEPA's verbal or written request, or the request of USEPA's oversight assistant, Settling Parties shall allow split or duplicate samples to be taken by USEPA (and its authorized representatives) or the State of any samples collected in implementing the Settlement Agreement and this SOW.

8.1 Investigate and Confirm Current Site Environmental Conditions

The Settling Parties shall collect data on the environmental characteristics of the Site and its surrounding areas, including background characteristics. This information shall be ascertained through a combination of physical measurements, observations, and other sampling efforts, and shall be utilized to define potential transport pathways and human and ecological receptor populations. The Settling Parties shall also obtain sufficient engineering data for the projection of contaminant fate and transport, development and screening of remedial action alternatives, including information to assess treatment technologies, and preliminary geotechnical data for

potential reuse opportunities. These data shall supplement the existing information as outlined in the Final DGA.

8.2 *Delineate Continuing Sources of Contamination*

The Settling Parties shall characterize the environmental media on the Site to determine physical characteristics, chemical constituents and concentration profiles for all known and discovered continuing sources of contamination, if any, present at the Site. The Settling Parties shall conduct sufficient sampling to delineate the boundaries of any contaminant sources to the level identified by the DQOs.

Delineating the sources of continuing contamination shall include analyzing background conditions, the potential for contaminant release, contaminant mobility and persistence, and characteristics important for evaluating remedial actions.

8.3 *Evaluate Site Physical and Biological Characteristics*

The Settling Parties shall analyze and evaluate the data to describe: (1) Site and background physical and biological characteristics; (2) contaminant source characteristics; (3) nature and extent of contamination; and, (4) contaminant fate and transport. Results of the Site physical characteristics, source characteristics, and extent of contamination analyses shall be utilized in the analysis of contaminant fate and transport. The Settling Parties shall evaluate the actual and potential magnitude of releases from the sources, and horizontal and vertical spread of contamination, as well as mobility and persistence of contaminants. Where modeling is appropriate, such models shall be identified to USEPA in a technical memorandum prior to their use. All data and programming, including any proprietary programs, shall be made available to USEPA together with a sensitivity analysis. Analysis of data collected for Site characterization shall meet the DQOs developed in the QAPP stated in the SAP (or revised during the RI).

8.4 *Baseline Risk Assessment*

The Settling Parties shall conduct a baseline risk assessment on each parcel to determine whether Site contaminants pose a current or potential risk to human health and the environment in the absence of any remedial action. The Settling Parties shall address background conditions, contaminant identification, exposure assessment, toxicity assessment, and risk characterization. Settling Parties shall conduct a baseline human health risk assessment that focuses on actual and potential risks to persons coming into contact with on-Site hazardous substances, pollutants or contaminants, as well as risks to the nearby residential, recreational and industrial worker populations from exposure to hazardous substances, pollutants or contaminants in groundwater, soils, sediments, surface water, and air, and via ingestion of contaminated organisms in nearby impacted ecosystems. The human health risk assessment shall define central tendency and reasonable maximum estimates of exposure for current land use conditions and reasonable future land use conditions. The human health risk assessment shall use data from the Site and nearby areas to identify the contaminants of concern (COC), provide an estimate of how and to what

extent human receptors might be exposed to these COCs, and provide an assessment of the health effects associated with these COCs. The human health risk assessment shall project the potential risk of health problems occurring if no cleanup action is taken at the Site and/or nearby areas, and establish target action levels for COCs (carcinogenic and non-carcinogenic).

The Settling Parties shall conduct the human health risk assessment in a manner consistent with USEPA guidance including, at a minimum: "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part A), "Interim Final (EPA- 540-1-89-002)," OSWER Directive 9285.7-01A; December 1, 1989; and "Risk Assessment Guidance for Superfund (RAGS), Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments)," Interim, (EPA 540-R-97-033), OSWER 9285.7-01D, January, 1998.

The Settling Parties shall prepare an Ecological Risk Assessment that evaluates and assesses the risk to the environment posed by Site contaminants. The Ecological Risk Assessment shall be prepared in a manner consistent with all applicable guidance, including but not limited, the following guidelines: "Ecological Risk Assessment Guidance for Superfund, Process for Designing and Conducting Ecological Risk Assessments, (EPA-540-R-97-006, June 1997)," OSWER Directive 9285.7-25.

9. Parcel-Specific Focused Remedial Investigation Report(s)

The Final USEPA-approved SWMP shall contain the schedule for submission for USEPA review and approval of the Site-wide Work Plans, Parcel-specific Focused RI Report(s), Risk Assessment Report(s), and other deliverables (e.g., monthly progress reports). It is expected that all data collected shall be analyzed and validated on an USEPA-approved schedule. Schedules for field work, data analysis, and data validation shall be included in the project schedule, submitted with the Parcel-specific Focused RI/FS Work Plan. Based on that final approved schedule, the Settling Parties shall submit to USEPA, for review and approval, a Focused RI Report addressing each individual parcel. The Focused RI Reports shall be consistent with the Settlement Agreement and this SOW. The RI Reports shall describe the Site characteristics such as media contaminated, extent of contamination, and the physical boundaries of the contamination.

Pursuant to this objective, the Settling Parties will obtain only the amount of data necessary to determine the contaminant(s) movement and extent of contamination source areas. The contaminant(s) shall be selected based on persistence and mobility in the environment and the degree of hazard. The key contaminant(s) identified in the RI shall be evaluated for receptor exposure and an estimate of the key contaminant(s) level reaching human or environmental receptors shall be made.

10. Parcel-Specific Focused Feasibility Study(ies)

The Settling Parties submit for USEPA review and approval Parcel-specific Draft Focused

Feasibility Studies which shall develop, screen, and evaluate remedial alternatives to address environmental conditions for the specific areas of the Site identified in the SWPMP. The range of alternatives shall include, as appropriate, options in which treatment is used to reduce the toxicity, mobility, or volume of wastes, but which vary in the types of treatment, the amount treated, and the manner in which long-term residuals or untreated wastes are managed; options involving containment with little or no treatment; options involving both treatment and containment; options involving institutional controls; and a no-action alternative. The Focused Feasibility Study shall be performed in a manner consistent with the USEPA Guidance "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance) and shall additionally recognize, where appropriate, the presumptive remedy components outlined for landfills in the USEPA streamlining manual entitled Conducting Remedial Investigations/Feasibility Studies for CERCLA Municipal Landfill Sites, February 1991 (OSWER Directive 9355.3-11). The Settling Parties shall submit to USEPA, for review and approval, a final Focused Feasibility Study Report addressing each individual parcel for approval by the USEPA.

Each Focused Feasibility Study shall consider the effect of each remedial alternative on the redevelopment potential for that parcel.

The Settling Parties shall perform the activities presented in the following sections as a function of the development and screening of remedial alternatives:

10.1 Remedial Action Objectives

Based on the baseline human health and ecological risk assessments, the Settling Parties shall develop the parcel-specific remedial action objectives. The remedial action objectives shall specify the constituents of concern and the media of interest; background levels; exposure pathways and receptors; and an acceptable contaminant level or range of levels (at particular locations for each exposure route). The Settling Parties shall identify areas or volumes of media to which the general response actions may apply and the chemical and physical characterization of the Site. A Memorandum on Remedial Action Objectives shall be prepared for submission to USEPA.

10.2 Identification of Applicable or Relevant and Appropriate Requirements

The Settling Parties shall identify all applicable or relevant and appropriate requirements (ARARs); other advisories, criteria, and guidance to be considered (TBCs) pursuant to Section 300.400(g)(3) of the NCP, 40 C.F.R. § 300.400(g)(3), that will apply to the remedial action proposed for each parcel. For the proposed remedial action, the Settling Parties shall also describe how the ARARs will be achieved or waived.

10.3 Develop General Remedial Actions

The Settling Parties shall develop general remedial action alternatives for each medium of interest such as containment, treatment, excavation, or other actions, singly or in combination, to satisfy the remedial action objectives for each specific parcel at the Site.

10.4 Identify and Screen Remedial Technologies

The Settling Parties shall identify and evaluate technologies applicable to each general remedial action to eliminate those that cannot be implemented on the parcel being studied. The Settling Parties shall refine applicable general remedial actions to specify remedial technology types. The Settling Parties shall identify technology process options for each of the technology types concurrently with the identification of such technology types or following the screening of considered technology types. The Settling Parties shall evaluate process options on the basis of the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e), to select and retain one or, if necessary, more representative processes for each technology type. Redevelopment potential shall be an additional consideration in evaluating technologies. As applicable, a focused approach incorporating presumptive remedies shall be utilized. A Memorandum of Development and Screening of Alternatives will be prepared for submission to USEPA.

10.5 Assemble Alternatives

The Settling Parties shall assemble the selected representative technologies into alternatives. The preliminary list of alternatives to address contaminated media on each parcel may include alternatives such as treatment technologies, removal and off-Site treatment/disposal, removal and on-Site disposal, in-place containment, and other appropriate alternatives.

The Settling Parties shall specify the reasons for eliminating any technologies. Together, all of the alternatives shall include a range of treatment, containment, and other viable combinations that will address either the Site as a whole or the specified parcel being addressed in the focused FS. The Settling Parties shall prepare a summary of the assembled alternatives and their related action-specific ARARs. The Settling Parties shall specify the reasons for eliminating alternatives during the preliminary screening process.

10.6 Alternatives Screening

The Settling Parties shall evaluate each alternative individually in relation to two threshold and five balancing criteria prescribed by the USEPA, set forth in 40 C.F.R. § 300.430(e)(9)(iii)(A-G), and a comparative analysis shall be performed to compare and contrast each alternative. The Settling Parties shall provide an alternatives array to summarize the screening evaluation. If necessary, the Settling Parties shall modify the alternatives array to assure that the array identifies a complete and appropriate range of viable alternatives to be considered in the detailed analysis. The Focused Feasibility Report(s) shall document the methods, the rationale, and the

results of the alternatives screening process. The Settling Parties shall present a recommended alternative for each parcel based on the results of the comparative analysis in the Focused Feasibility Report(s).

11. Reuse Assessment(s)

With respect to the potential remedial alternatives considered in the Focused Feasibility Study(ies), the Settling Parties shall coordinate the environmental evaluations with real estate development planning actions. The Reuse Assessment shall expand on the Reuse Evaluation conducted as part of the Site-Wide Program Management Plan. Opportunities identified and further considered during preparation of this assessment shall also be considered in the development of the remedial alternatives. Redevelopment opportunities will be addressed through property parcelization. The Settling Parties shall evaluate all existing environmental data, Site information, and studies conducted during the RI/FS work efforts to determine reuse constraints, and a strategy for a "targeted parcelization" approach.

This more comprehensive Reuse Assessment shall be consistent with the USEPA "Reuse Assessments: A Tool To Implement The Superfund Land Use Directive," (OSWER Directive 9355.7-06P) which was developed in support of the Superfund Redevelopment Initiative (SRI). The purpose of the reuse assessment will be to integrate realistic assumptions of future land use into any response action for a particular parcel, facilitating the reuse of the Site following cleanup.

The Reuse Assessment shall also identify areas where institutional controls might be appropriate to prevent exposure to contamination remaining on-Site and to provide access to, or protect, components of the remedy in the context of "A Site Manager's Guide to Identifying, Evaluating and Selecting Institutional Controls at Superfund and RCRA Corrective Action Cleanups," (OSWER 9355.0-74FS-P, EPA 540-F-00-005, September 2000.)

12. SCHEDULE FOR DELIVERABLES

The following are required to be submitted for USEPA review and approval pursuant to Section X of the Settlement Agreement pursuant to this SOW in accordance with the schedule set forth below:

Deliverable

Project Management Plan

Deadline

within 45 days of Effective Date of Settlement Agreement

Site-Wide Program Management Plan

within 90 days of USEPA approval of Project Management Plan

Site-Wide RI/FS Work Plan	within 90 days of USEPA approval of Site-Wide Program Management Plan
Parcel-Specific RI/FS Work Plans	pursuant to the schedules set forth in the USEPA-approved Site-Wide Program Management Plan
Parcel-Specific Focused RI Reports	pursuant to the schedules set forth in the USEPA-approved Parcel-Specific RI/FS Work Plans
Parcel-Specific Draft Focused FS Reports	within 120 days of USEPA approval of the RI Report for that parcel
Reuse Assessment	pursuant to the schedule in the Site-Wide Program Management Plan

Appendix A

Interim Data Gap Analysis

68th Street Landfill Site

Purpose

In accordance with the National Contingency Plan (NCP), the purpose of a Remedial Investigation/Feasibility Study (RI/FS) is to characterize the site, establish the existing and potential risk imposed by the site on the human and natural environments, and to establish mitigating mechanisms. All other components of the process are intended to support this goal. The scoping of an RI/FS is initiated with a review of existing data, with the objective to use the existing data to the maximum extent possible to fill the critical data needs for the project; supplemental data is identified for collection, as needed. Therefore, the purpose of any Data Gap Analysis is to ascertain the nature and extent of focused data collection efforts that will be necessary during the RI/FS process.

The specific purpose of conducting this Interim Data Gap Analysis (IDGA) for the 68th Street Landfill Site (the "Site") is to evaluate the extensive environmental database available for the Site as a foundation for the conduct of the RI/FS(s), and to forecast data collection needs for future risk-based remedial decision-making. In addition, given that the Site will be redeveloped under the Superfund Alternative Sites (SAS) Program, the IDGA establishes requirements of a non-environmental nature that are necessary for concurrent consideration in order to integrate the Site development with the remedy. The objective of this IDGA effort is, therefore, the development of a program that will form the foundation for the Final Data Gap Analysis (FDGA) and a guide for the preparation of the Focused RI/FS Work Plans for each parcel.

Methodology

The fundamental goal of this IDGA is to determine the types, number and quality of supplemental data required for risk-based decision-making at the Site utilizing the existing environmental database as a foundation, and concurrently considering the requirements for incorporating the proposed redevelopment concept. Environmental data collected on and around the Site, as delineated by the U.S. Environmental Protection Agency (USEPA), have been compiled from data derived primarily from Preliminary Assessments /Site Inspections (PA/SIs) and Expanded Site Inspections (ESIs) conducted for the individual landfills from about 1984 through the late 1990's by the Maryland Department of the Environment (MDE). Further, the USEPA conducted supplemental sampling at the Site in 2000, focusing primarily on soil, sediment and surface-water issues. The data collected to-date has been compiled into an Equis[™] database, and GIS/ Arcview 9 graphic presentation of the information available, provided to the USEPA on September 23, 2005. In addition, an interpretation of the site from stereoscopic aerial photography has been performed to assess the apparent limits and time sequencing of the waste emplaced as well as other physical features such as floodplains, structures, and relic waste operations. These data and information have served as a baseline for this IDGA.

The potential limits for redevelopment of the Site have been established through the conduct of an environmental constraint analysis that differentiates areas that could be developed from those that must remain as preservation areas. At this time, development is projected to consist of commercial and industrial options; preservation and environmental restoration areas would constitute the remainder of the Site, including highway, railway and slope buffer areas. While not final, this concept will serve as the "roadmap" for the ultimate development of the Site. The concept anticipates active and passive reuse of portions of the Site incorporating a variety of opportunities in response to market drivers, community needs, the interests of commercial developers, and the requirements for environmental restoration by the Environmental Trustees, the USEPA and the MDE. In addition, the specific development requirements required by the planning, zoning and regulatory climate in the jurisdictions of the development must be met; these jurisdictions include Baltimore City and Baltimore County. These limitations will address sensitive areas and related legislation, zoning setbacks, easements, water and sewer service availability, utilities, access and other physical restrictions.

Results

The concept resulting from the environmental constraint analysis is presented on Figure 1. This depiction utilizes an aerial photograph of the Site vicinity as a base map, and indicates those areas of the Site as delineated by the USEPA which represent "developable land" and those that are environmentally or otherwise constrained from development, and may best be left as preservation lands. The Site offers a development "bridge" between the recent commercial/industrial development both north and south of the Site, which is consistent with the existing zoning for the area. Indicated on the figure are also potential access routes and designations for the various development "parcels" (annotated "A" through "D"). To supplement environmental constraints, infrastructure and planning constraints will be established during the Reuse Evaluation (SOW Section 4.3).

Based upon the concept for redevelopment, the risks and exposure pathways for both human health and ecological conditions associated with the potential development and conservation areas were determined. These considered areas that would be developed, those that would remain as preservation areas in the short term (awaiting development) or alternatively long term, and environmentally constrained areas. The present, remediation/construction and long-term use scenarios are considered. These risk assessment needs by medium are presented on Table 1. The existing environmental data at the Site and the minimum additional data necessary for the risk assessments are summarized by medium on Table 2; these needs recognize that the overall Site will be parceled into multiple units for subsequent Focused RI/FS evaluations and development. The entries on Table 2 are allocated by designated developable land parcel A through D (see Figure 1), and also potential conservation areas differentiated by upland versus lowland habitats. Overall, Tables 1 and 2 therefore summarize the media of interest and the number of samples that the Data Gap Analysis has identified as appropriate. Briefly, Table 2 projects a total of 202 samples to be collected during the RI covering the media and risk elements specified in Table 1, and the issues of significance in Table 2 relative to aligning remediation with redevelopment. This includes the 10

percent validation sampling of the 265 historical samples, plus the new locations that would fill data gaps as they presently have been identified. This outline of sampling needs constitutes the Data Gap Analysis that would be the guideline for the RI/FS Work Plans to follow.

As a mechanism to validate the extensive available database, 10 percent of the existing data points will be replicated during the sampling effort to evaluate outliers and any other elevated or other unusual results, as well as a random sampling of the remaining data points from the existing database. In addition, sampling locations have been included to address risk assessment needs, locationally deficient areas, and specific requirements. An example of the latter is the installation of near-surface groundwater piezometers and wells near the streams to investigate the potential for groundwater discharges to the surface water on the Site. Further, as a result of the potential active reuse of the Site, soil gas surveys/sampling, leachate seeps sampling and biota surveys are incorporated, as appropriate, as environmental data needs.

After consideration of the data requirements for each risk assessment by parcel, the existing data set was overlain to ascertain any supplemental data requirements. Figures 2 through 6 indicate the Site, the limits of waste from the aerial interpretation and the USEPA-defined source areas overlain by the existing and proposed sample locations by medium. Specific analytical data to be acquired at each identified location will be specified in the FDGA and RI/FS Work Plans. The analyses specified at each location, by medium, will be tailored to reflect the needs of each parcel based on the existing information and the goals for the data collection effort in lieu of collecting standard suites of data at each location. After the RI effort for each parcel, a final determination of the source areas, and site boundary, can be made, and the impacts on development assessed.

Non-environmental issues will also play a key role in determining the ability of the Site to be developed as portrayed in the concept. Data needs for these elements are portrayed on Table 3, and include: Infrastructure; Environmental/Sensitive Areas; Zoning and Planning; Geotechnical/Subsurface Evaluation; Site Survey; Stormwater Management; Development Evaluation; Policy and Incentives; and, Community Interests elements. The data requirements for each of these elements are described and their point of incorporation into the RI/FS process indicated on Table 3. Figure 7 portrays graphically the geotechnical information anticipated for Site characterization purposes. These data will ultimately be supplemented by structure-specific information after the Master Development Plan is prepared for each parcel.

The FDGA is required under the Statement of Work (SOW) as a component of the Program Management Plan. The FDGA will use this IDGA as a foundation and will be refined to incorporate other data not previously available (if any), or needs not previously identified. Primarily, the FDGA will differ from this IDGA in providing the documentary summary of Site information enumerated in Section 4.1 of the SOW.

Table 1
Risk Assessment Evaluation
Interim Data Gap Analysis
68th Street Landfill Site

	Acres	Number of Parcels	Potential Short-term Exposure Scenarios (2)	Potential Long-Term Exposure Scenarios (3)	Media to be Evaluation in Risk Assessment (1)						
					soil (4)	sediment	groundwater	surface water	soil gas	leachate seeps	biota survey (5)
Developable Land											
<u>Development Parcels:</u> commercial warehouse/office and impervious surfaces	99	4	<u>Developable Land:</u> construction/utility worker, ecological <u>Undevelopable Land:</u> trespasser; ecological	<u>Developed Land:</u> utility worker; commercial worker; trespasser/visitor; ecological	■		■		■	■	
Non-Developable Land											
<u>Preservation Areas (upland area):</u> forest, highway, railway and slope buffer	32	multiple	<u>Open Space:</u> trespasser; ecological	<u>Open Space:</u> trespasser; recreational user; ecological	■				■	■	
<u>Preservation Areas (lowland area):</u> wetland, floodplain, surface water	138	multiple	<u>Open Space:</u> trespasser; ecological	<u>Open Space:</u> trespasser; recreational user; ecological	■	■		■		■	■
Total:	269										

Notes:

- 1 A survey of surficial debris will be included within the risk evaluation for short-term exposure scenarios
- 2 Short-term scenarios include current exposures that may occur within each area, including proposed construction for development
- 3 Long-term scenarios include future exposures that may occur after property development either as commercial use areas or preservation areas
- 4 Soil samples, as noted in Figure 2, are located within historical waste disposal areas and in undisturbed areas
- 5 Bio survey includes benthic invertebrate sampling and fish tissue bioassay sampling

Table 2
Analytical Data
Interim Data Gap Analysis
68th Street Landfill Site

			Acres	Minimum Number of Samples by Medium Required for Risk Assessment						Number of Historical Samples by Medium						
				soil	sediment	groundwater	surface water	soil gas	leachate seeps (estimated) (1)	biota survey (2)	soil	sediment	groundwater	surface water	soil gas	leachate seeps
<u>Developable Land: Commercial Warehouse/Office, Pervious and Impervious Surfaces</u>																
A	Parcel 117; Eastern Region of the Site	10	8		8		8	4		3	0	0	1	0	0	0
B	Parcel 16E, 118, and Areas Immediately North of These Parcels	35	8		8		8	4		24	2	0	1	0	0	0
C	Parcel 403 and 405; Northern Region of the Site	27	8		8		8	4		11	1	8	1	0	0	0
D	Immediately east of the Moravia Road Ramp	30	8		8		8	4		30	6	0	3	0	0	0
SUBTOTAL		102								68	9	8	6	0	0	0
<u>Non-Developable Land</u>																
1	Preservation Areas (upland areas): Forest, Highway, Railway and Slope Buffer	52	8					4		30	9	2	5	0	0	0
2	Environmental Constraint Areas (lowland areas): Wetland, Floodplain, Surface Waters	115	8	8		8		4	8	20	58	3	47	0	0	0
SUBTOTAL		167								50	67	5	52	0	0	0
TOTAL:			269							118	76	13	58	0	0	0

Notes:

- 1 Number of leachate samples will be confirmed subsequent to identification of leachate seeps during the Remedial Investigation
- 2 Biota Survey includes 9 sampling locations for stream benthic invertebrate diversity sampling, and 4 estimated locations for fish capture for bioassay analysis
- 3 If the number of historical samples was greater than zero, but less than 10, then a minimum of 1 sample would be reanalyzed.
- 4 9/4 = (9) benthic invertebrate survey locations; (4) fish tissue bioassay sampling locations

tbd to be determined during the Remedial Investigation
na not applicable assuming upland locations
■ not applicable for Risk Assessment

Table 2
Analytical Data
Interim Data Gap Analysis
68th Street Landfill Site

			Number of Proposed Samples by Medium (includes 10% re-analysis of historical samples + new samples) (3)							Total Number of Samples by Medium Applicable to Risk Assessment (includes proposed and historical data)						
			soil	sediment	groundwater	surface water	soil gas	leachate seeps (estimated) (1)	biota survey (2)	soil	sediment	groundwater	surface water	soil gas	leachate seeps (estimated) (1)	biota survey (2)
Developable Land: Commercial Warehouse/Office, Pervious and Impervious Surfaces																
A	Parcel 117; Eastern Region of the Site		5	0	8	1	8	4	na	8	0	8	2	8	4	na
B	Parcel 16E, 118, and Areas Immediately North of These Parcels		6	1	8	1	8	4	na	30	3	8	2	8	4	na
C	Parcel 403 and 405; Northern Region of the Site		6	1	6	1	8	4	na	17	2	14	2	8	4	na
D	Immediately east of the Moravia Road Ramp		7	2	8	1	8	4	na	37	8	8	4	8	4	na
	SUBTOTAL		24	4	30	4	32	16	na	93	13	38	11	32	16	na
Non-Developable Land																
1	Preservation Areas (upland areas): Forest, Highway, Railway and Slope Buffer		9	1	10	1	8	8	na	39	10	12	6	8	8	na
2	Environmental Constraint Areas (lowland areas): Wetland, Floodplain, Surface Waters		2	20	1	19	na	na	9/4 (4)	22	78	4	66	na	na	9/4 (4)
	SUBTOTAL		11	21	11	20	8	8	9/4	61	88	16	72	8	8	9/4
TOTAL:			35	25	41	24	40	24	9/4	154	101	54	83	40	24	9/4

Notes:

- 1 Number of leachate samples will be confirmed subsequent to identification of leachate seeps during the Remedial Investigation
- 2 Biota Survey includes 9 sampling locations for stream benthic invertebrate diversity sampling, and 4 estimated locations for fish capture for bioassay analysis
- 3 If the number of historical samples was greater than zero, but less than 10, then a minimum of 1 sample would be reanalyzed.
- 4 9/4 = (9) benthic invertebrate survey locations; (4) fish tissue bioassay sampling locations

tdb to be determined during the Remedial Investigation

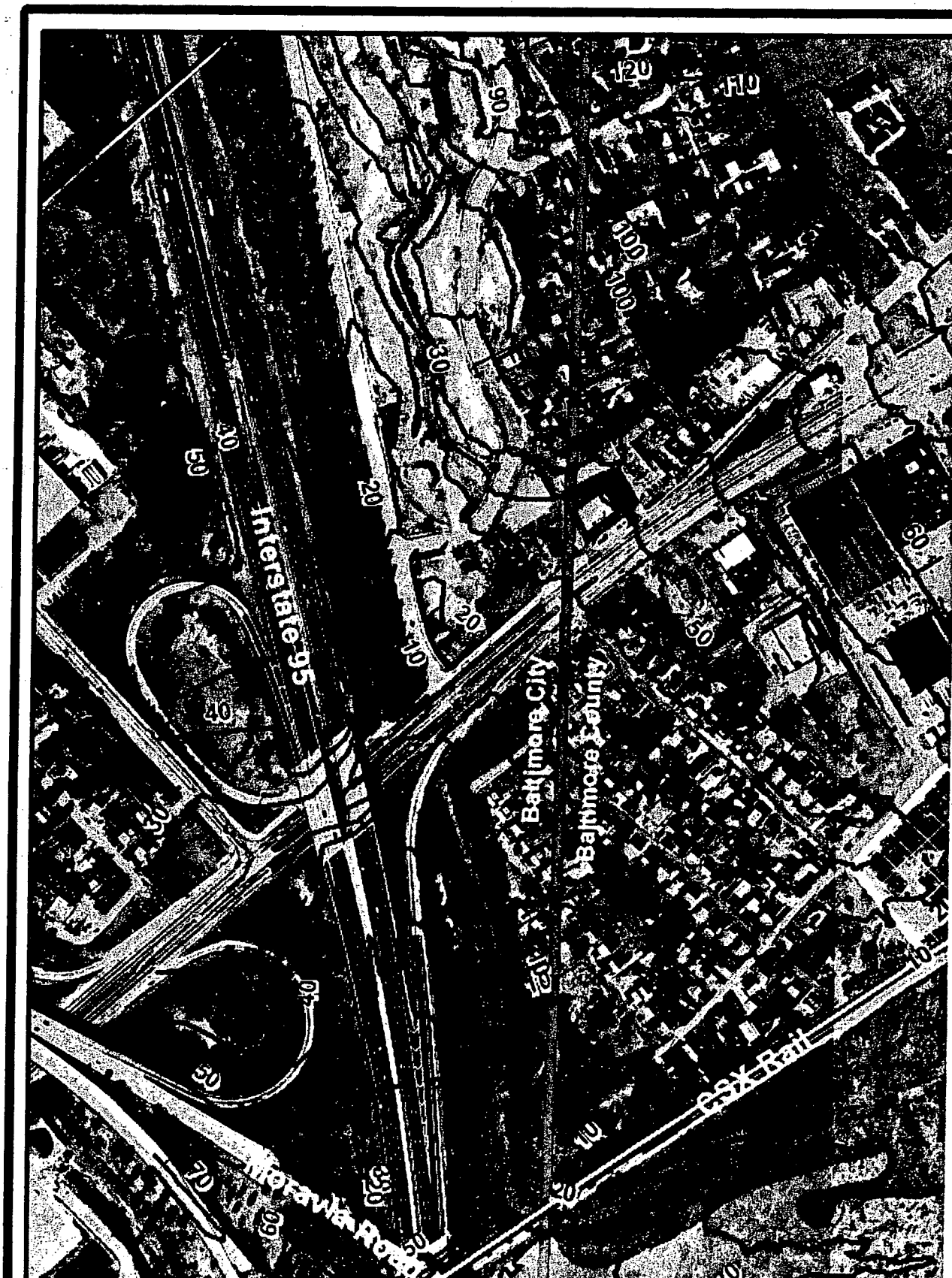
na not applicable assuming upland location:

• not applicable for Risk Assessment

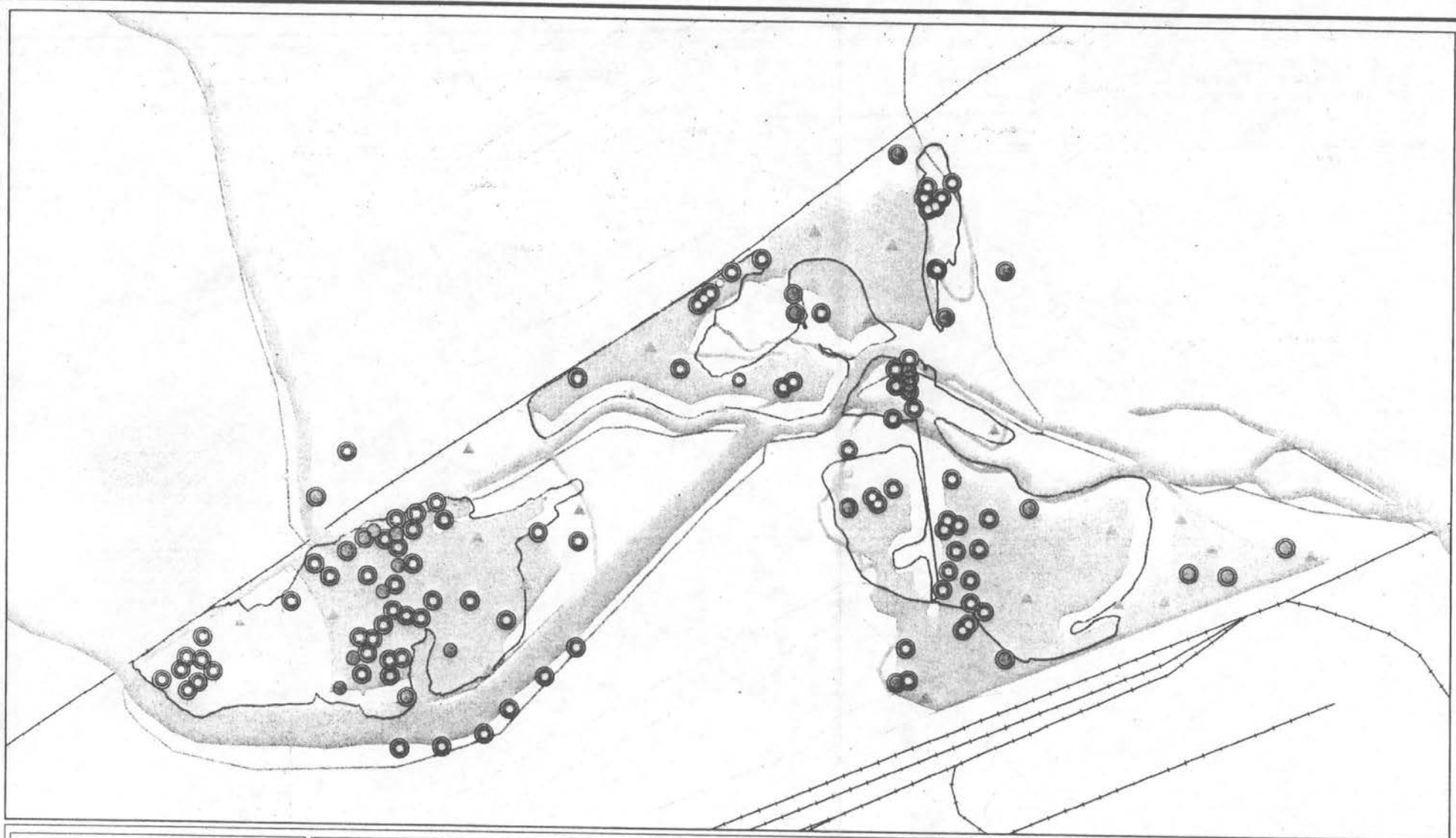
**Table 3
Site Redevelopment Data
Interim Data Gap Analysis
68th Street Landfill Site**

		Final Data Gap Analysis	Re-Use Evaluation	Parcel Delineation and Redevelopment Scheme	Re-Use Assessment	Notes
Infrastructure						
1	Roads/Highways		Ex. infrastructure overview, level of service, ex. & design volume, planned upgrades, preliminary access areas		Preliminary impact analysis, projected flows	
2	Railroad		Ex. infrastructure overview, access, viability, constraints, spur potential		Preliminary impact analysis, projected flows	
3	Utilities					
3a	Water		Ex. infrastructure overview, service location, WTP, ex. Flow, pressure		Preliminary impact analysis, projected flows	
3b	Sewer		Ex. infrastructure overview, service location, pump station, WWTP, ex. Flow, capacity,		Preliminary impact analysis, projected flows	
3c	Storm drain		Ex. infrastructure overview, location, ex. Flow, capacity		Preliminary impact analysis, projected flows	
3d	Electric		Ex. infrastructure overview		Preliminary impact analysis	
3e	Phone		Ex. infrastructure overview		Preliminary impact analysis	
3f	Gas		Ex. infrastructure overview		Preliminary impact analysis	
3g	Cable		Ex. infrastructure overview		Preliminary impact analysis	
3h	Fiber Optics		Ex. infrastructure overview		Preliminary impact analysis	
Environmental/Sensitive Areas						
1	Wetlands	Preliminary constraint analysis	Constraint analysis		Review jurisdictional delineation	
2	Critical Areas	Preliminary constraint analysis	Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
3	Floodplains	Preliminary constraint analysis	Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
4	Forest Stand/agriculture/Champion trees		Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
5	Steep slopes	Preliminary constraint analysis	Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
6	Noise		Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
7	Endangered/Threatened species		Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
8	Natural resources		Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
9	Streams & buffers	Preliminary constraint analysis	Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
10	Mineral resources		Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
11	Open space	Preliminary constraint analysis	Constraint analysis		Evaluate any restrictions, meetings, permit requirements	
12	Air Quality		Identify soil-gas probe locations		Review soil-gas probe, air monitoring at soil borings	

Table 3 (continued)					
Zoning and Planning					
1	Historical and archeological areas		Constraint analysis	Evaluate any restrictions, meetings, permit requirements	
2	Setbacks and buffers		Constraint analysis	Evaluate any restrictions, meetings, permit requirements	
3	Easements		Constraint analysis	Evaluate any restrictions, meetings, permit requirements	
4	Zoning		Determination	Evaluate any restrictions, meetings, permit requirements	
5	Property Owners		Determination		
6	Land Use		Determination		Site/surrounding areas
7	Jurisdictional Master Plans		Review future plans & allocation; meetings with jurisdictions	Meetings with jurisdictions	
8	Site boundary	Conceptual limits	Conceptual limits, review historical aerial report		
Geotechnical/Subsurface Evaluation					
1	Soil characterization		Locate soil borings, geotechnical sampling and testing	Review soil borings, geotechnical sampling and testing	Env/structural borings: 18; Env borings: 5; approx. 10,000ft geophysical survey
2	Geology/hydrogeology		Locate soil borings	Review soil borings	
3	Geotechnical Analysis			Preliminary geotechnical evaluation	
4	Subsurface/waste cell delineation		Locate geophysical survey	Geophysical survey sections	
Site Survey					
1	Topography and surface features		Site visit	Site-wide topographical survey	
2	Site visit		sample locations, features, seeps		
Stormwater Management					
				Preliminary BMP and locations, outfalls	
Development Evaluation					
1	Market Assessment		Market overview	Market assessment, economic impact analysis, suitability	
2	Parcelization/Prioritization	Preliminary limits of developable areas	Preliminary parcelization & prioritization	Prioritization for RI/FS scheduling	Refine parcelization/prioritization
Policy and Incentives					
1	Smart growth		Review applicability	Meetings, financial assistance estimates, process	
2	Urban renewal		Review applicability	Meetings, financial assistance estimates, process	
3	Revitalization areas		Review applicability	Meetings, financial assistance estimates, process	
4	Empowerment zones		Review applicability	Meetings, financial assistance estimates, process	
5	Enterprise zones		Review applicability	Meetings, financial assistance estimates, process	
6	BCE economic development		Review applicability	Meetings, financial assistance estimates, process	
7	Brownfields		Review applicability	Meetings, financial assistance estimates, process	
Community Interests					
1	Needs Assessment			Analysis of Public Benefit, public input	USEPA Lead



AR100093




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Scale in Feet
 1" = 550'

550 275 0 550
 Feet

Legend

Historical Soil & Waste Sample Locations

Metals

Organics

Petroleum/Hydrocarbons

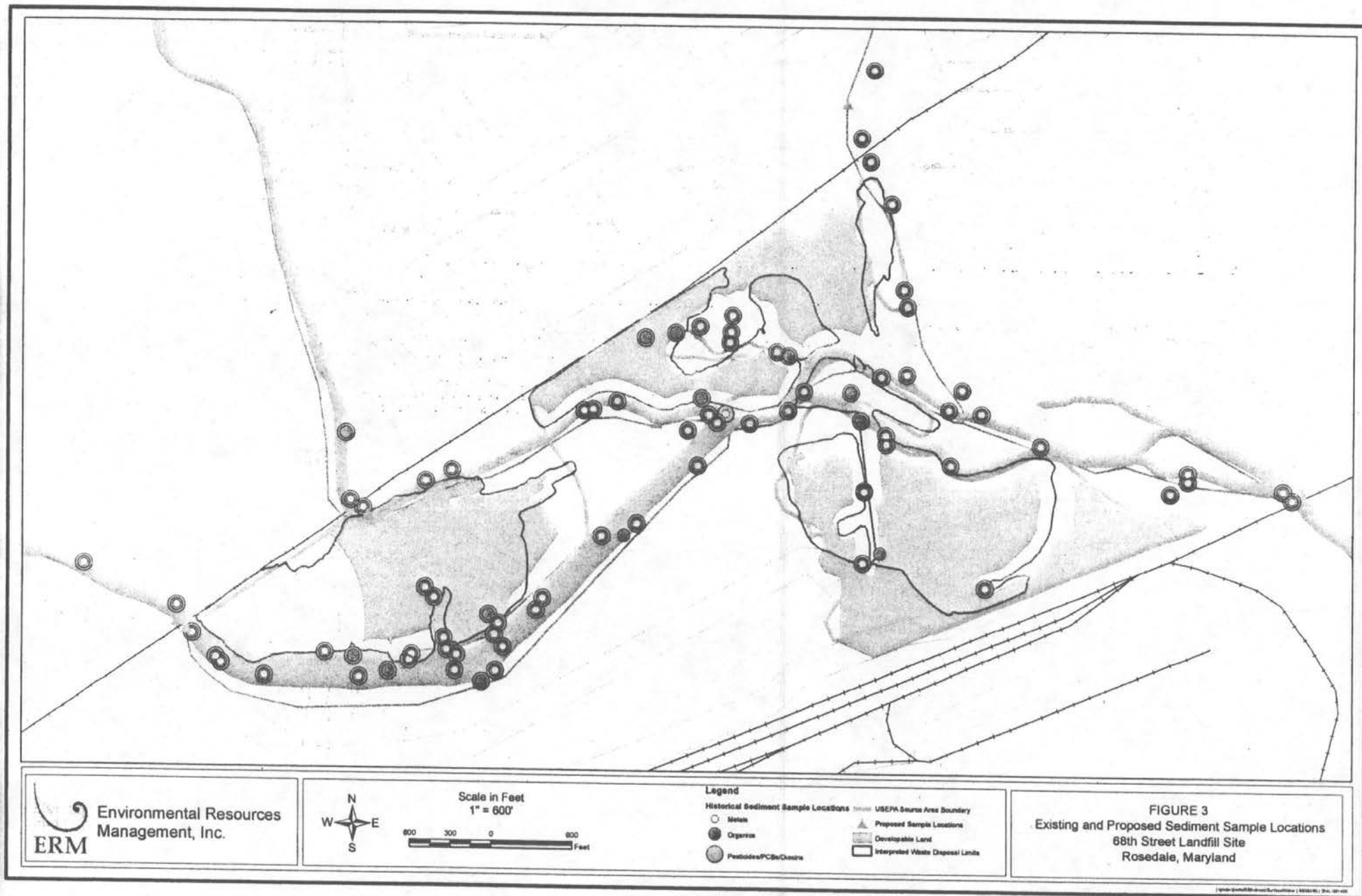
US EPA Source Area Boundary

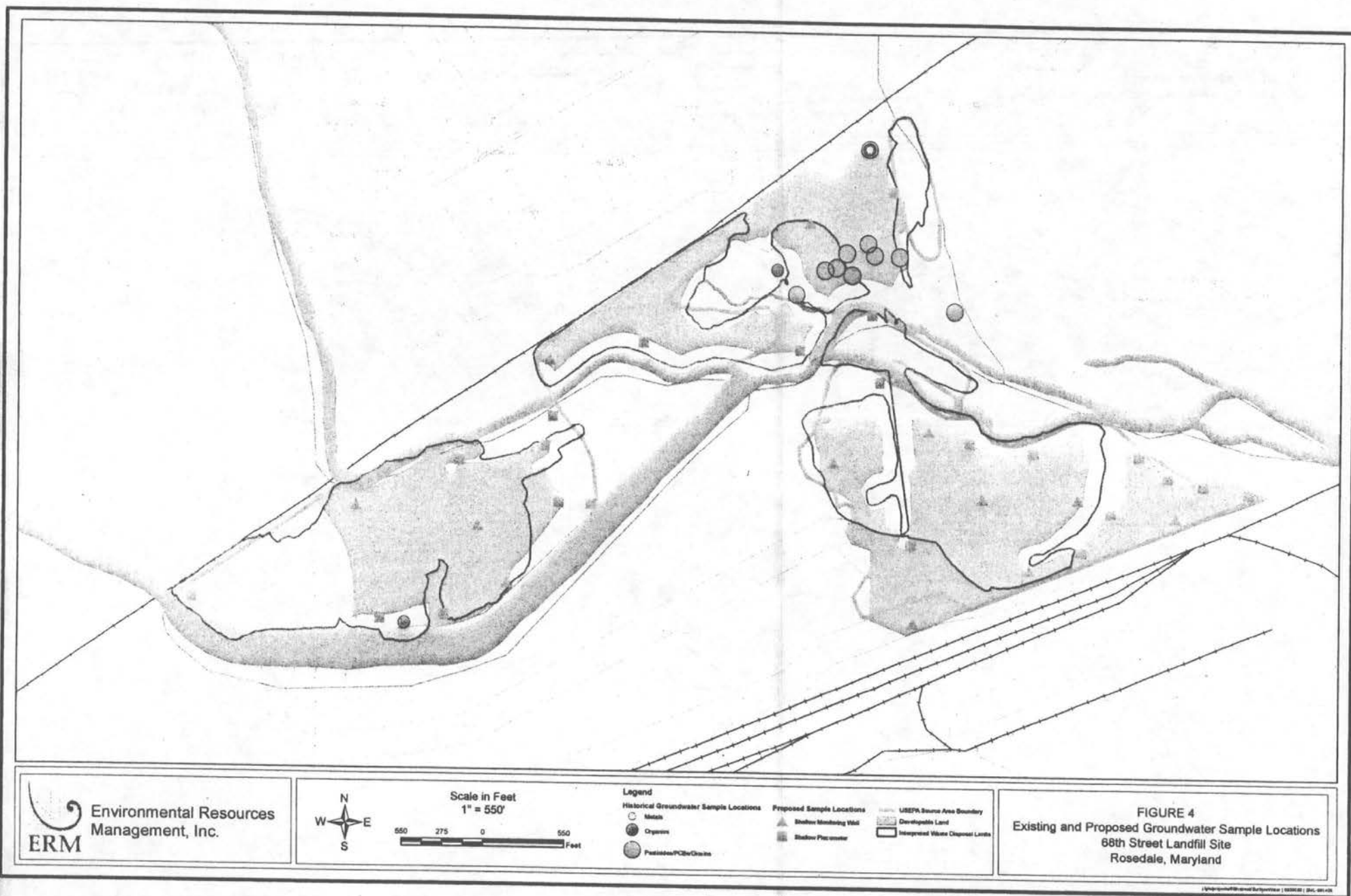
Proposed Sample Locations

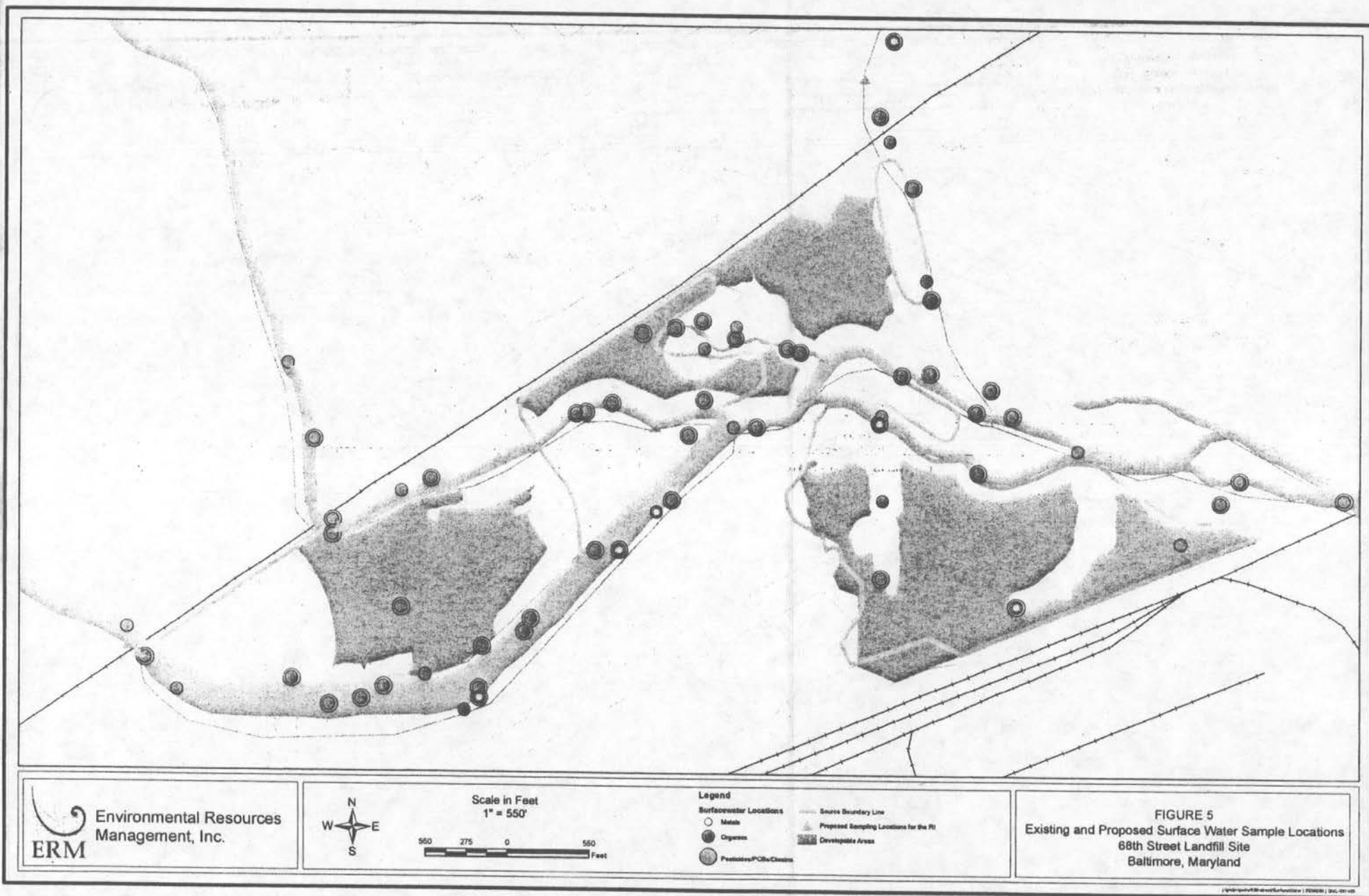
Disposable Land

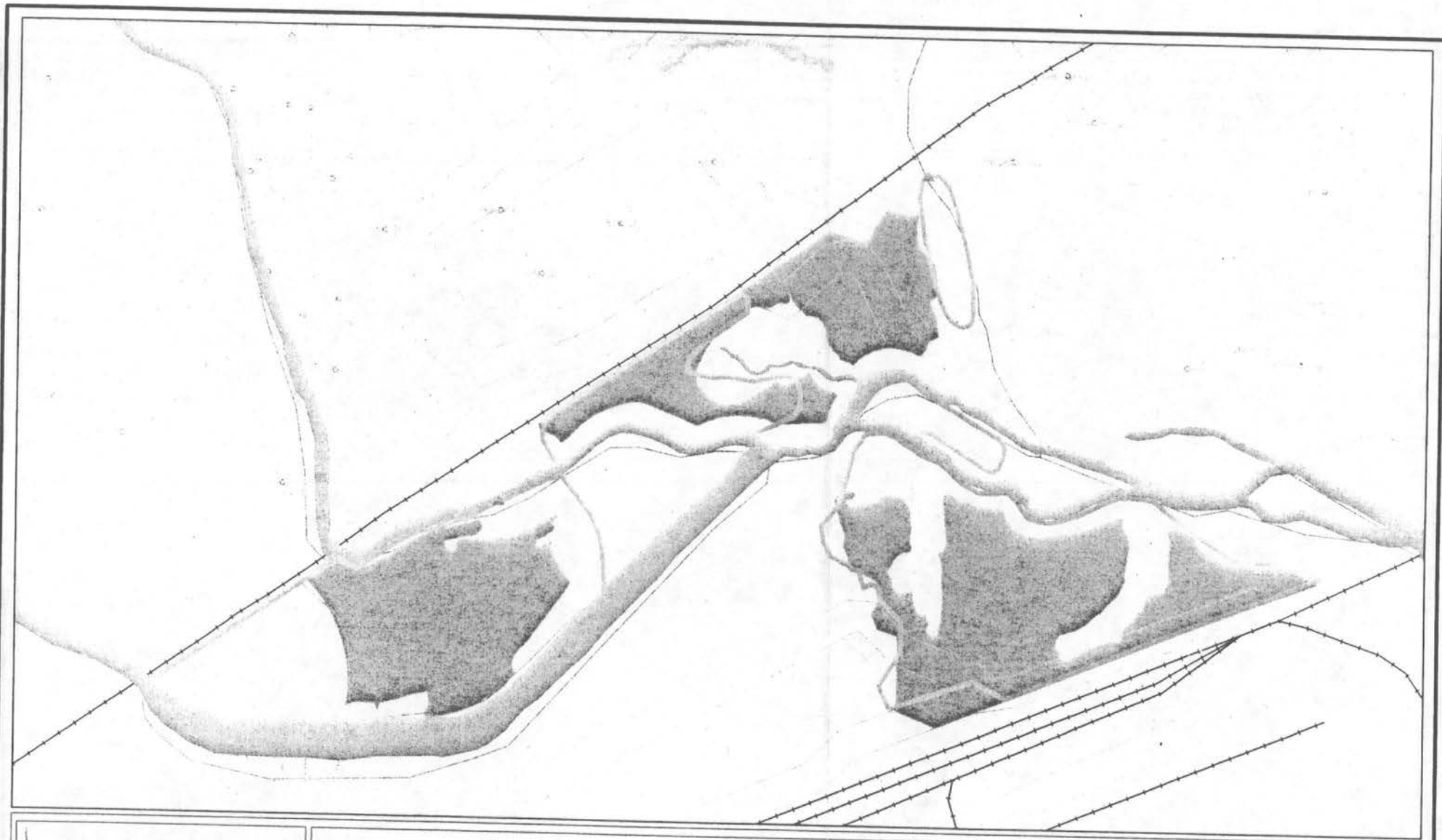
Interrelated Waste Disposal Units


FIGURE 2
 Existing and Proposed Soil Sample Locations
 68th Street Landfill Site
 Rosedale, Maryland










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Scale in Feet
1" = 550'
 0 25 50 Feet






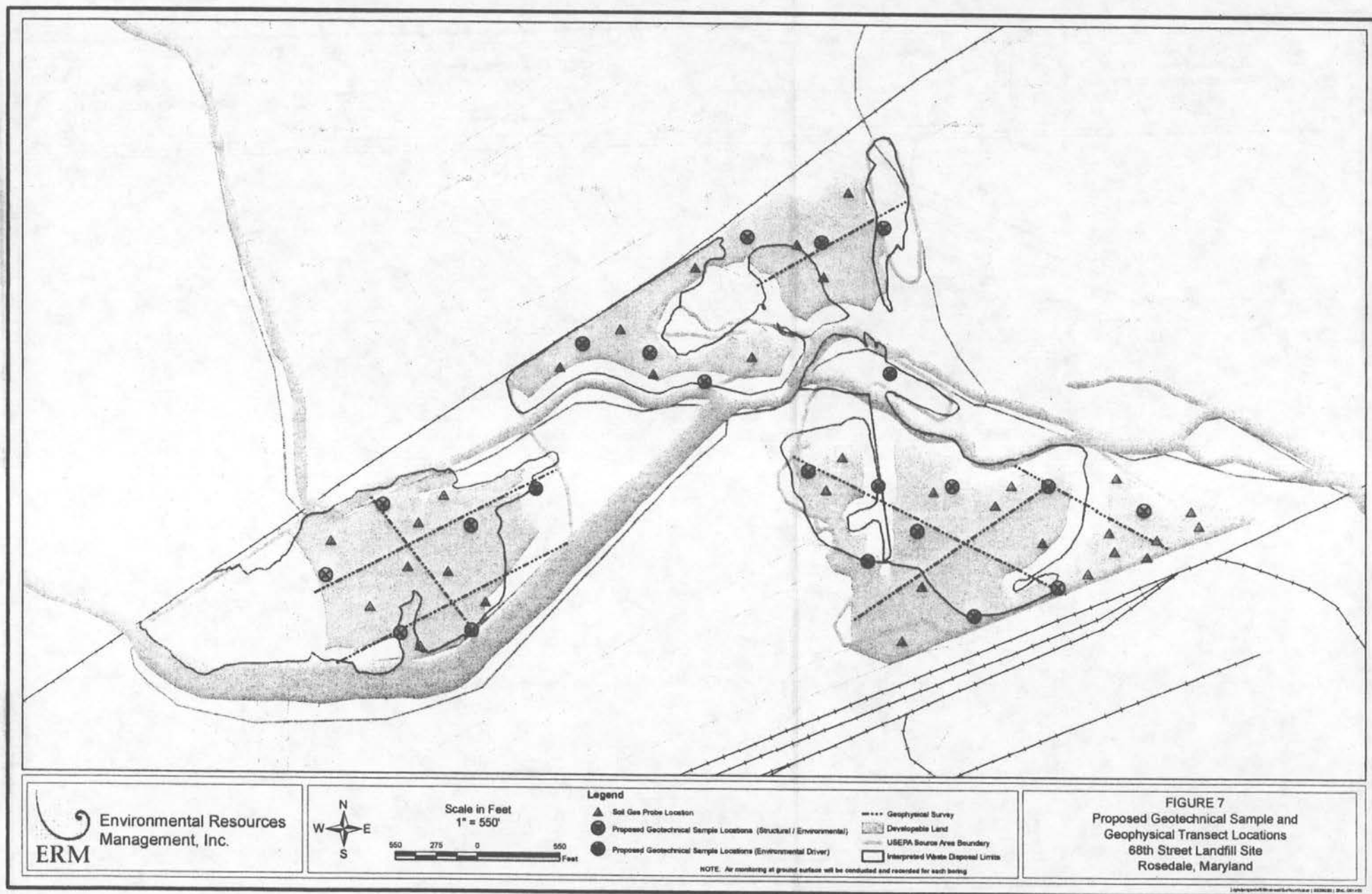
- Legend**
-  District Boundary Line
 -  Developable Areas
 -  Proposed Locations
 -  Barbed Conductivity Assessment
 -  Fish Tissue Sample

FIGURE 6
Proposed Stream Health Assessment
85th Street Landfill Site
Baltimore, Maryland



Appendix B
Guidance Documents
68th Street Landfill Site

The following guidance documents have been issued by the USEPA and/or other federal agencies, but do not confer regulatory authority. To the extent that they are applicable to all or a portion of the Site, they will be considered in conducting each parcel-specific RI/FS; not all guidance will, however, necessarily apply to each parcel-specific RI/FS.

ASAOC Specified Guidance:

- Superfund Alternative Site (SAS) Process, OSWER Guidance Memorandum (92-08.0-17) dated June 24, 2002, amended June 17, 2004
- Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA, OSWER Directive 9355.3-01, October 1988, or subsequently issued guidance
- Guidance for Data Useability in Risk Assessment, OSWER Directive 9285.7-05, October 1990, or subsequently issued guidance
- USEPA Guidance for Quality Assurance Project Plans (QA/G-5), EPA/600/R-02/009, December 2002, or subsequently issued guidance
- USEPA Requirements for Quality Assurance Project Plans (QA/R-5), EPA 240/B-01/1003, March 2001, or subsequently issued guidance
- USEPA Standard Operating Safety Guide, PUB 9285.1-03, PB92-963414, June 1992, or subsequently issued guidance
- Reuse Assessments: A Tool To Implement The Superfund Land Use Directive, OSWER Directive 9355.7-06P, June 4, 2001, or subsequently issued guidance
- Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part A), RAGS, EPA-540-1-89-002, OSWER Directive 9285.7-01A, December 1989, or subsequently issued guidance
- Interim Final Risk Assessment Guidance for Superfund, Volume I - Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments, RAGS, EPA 540-R-97-033, OSWER Directive 9285.7-01D, January 1998, or subsequently issued guidance
- Ecological Risk Assessment Guidance for Superfund: Process for Designing and Conducting Ecological Risk Assessments, ERAGS, EPA-540-R-006, OSWER Directive 9285.7-25, June 1997, or subsequently issued guidance
- USEPA Requirements for Quality Management Plans (QA/R-2), EPA/240/B-01/002, March 2001, or equivalent documentation

Supplemental Guidance:

- Rapid Bioassessment Protocols for Use in Streams and Wadeable Rivers: Periphyton, Benthic Macroinvertebrates and Fish, Second Edition. EPA 841-B-99-002. 1999
- A Guidebook for Application of Hydrogeomorphic Assessments to Riverine Wetlands, U.S. Army Corps of Engineers, WES, 1995
- National Hazardous Substances and Oil Pollution Contingency Plan, 40 CFR, Part 300
- CERCLA Compliance with Other Laws Manual: Interim Final, EPA/540/G-89/006. August 1988
- Superfund Community Involvement Handbook, EPA 540-K-01-003, April 2002
- Guidance for Preparing Superfund Ready Reuse Determinations, OSWER 9365.0-33, February, 12, 2004
- Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfield, Federal Facility, UST, and RCRA Hazardous Waste Cleanups, CERCLA 42 U.S.C. Section 9617(c), 2004